Canada 934L

RESTRICTIVE TRADE PRACTICES COMMISSION

LOSS-LEADER SELLING

TRANSCRIPT OF EVIDENCE

Vol 15-18

VANCOUVER

JUL 5 1954

C O N T E N T S

Vancouver Sitting

(first day)

(No Exhibits filed)

135 RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

in inquiry

Regarding Loss Leader Selling

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Hearing held (in public) in Room 414, The Court House, Vancouver, British Columbia, Monday, July 5, 1954.

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PRESENT:

C. Rhodes Smith, Q.C.,M.A.,LL.B.,B.C.L.,	Chairman
Guy Favreau, Q.C.,B.A.,LL.B.,	Member
A. S. Whiteley, B.A.,M.A.	Member

APPEARANCES:

Mr. Paul Gerin-Lajoie	Counsel for the Commission
Mr. R. M. Davidson	Secretary to the Commission

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REPRESENTATIONS:

The Retail Merchants Association of Canada, British Columbia:

Mr. Grant Deachman

Mr. Melvin Thomson

Mr. Alex Forst

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THE CHAIRMAN: In opening the hearings in Vancouver, for the benefit of those who may be presenting briefs I simply wish to say that the practice we have been following is that the person handling the brief will read it and make any comment and discuss any points he wishes to discuss during the course of the reading. Then, he may add anything he wishes at the end of the brief.

If anybody who is associated with him in the presentation of the brief he reads wishes to add anything, he is at liberty to do so. Following that questions will be asked by counsel for the inquiry and by members of the Commission. In this way it is expected - and this has worked out pretty well in practice - that anything those presenting the brief desire to say will be said, and we will have a pretty clear picture of their case.

This morning I understand we are to have a brief presented by and on behalf of the Retail Merchants Association of British Columbia. I would ask those who are presenting the brief to come forward and take the chairs at the front.

MR.DEACHMAN: I am presenting the brief.

THE CHAIRMAN: Let us have your full name and the full names of those who are associated with you, together with their positions or titles in connection with the Association.

MR. DEACHMAN: My name is Grant Deachman, and I am General Manager of the Retail Merchants Association of Canada, British Columbia.

THE CHAIRMAN: Is the British Columbia branch now a separately incorporated organization?

MR. DEACHMAN: It is not incorporated under the Societies Act of British Columbia, but it is in process of incorporating under that Act and, by agreement with the national office it holds the right to its separate identity.

THE CHAIRMAN: I had heard that they were in process of being incorporated. I did not know whether that had been completed or not.

MR. DEACHMAN: That is right.

THE CHAIRMAN: And who are with you?

MR. DEACHMAN: I have with me at the moment Mr. Melvin Thomson of the firm of Thomson and Paige, a member of the Retail Merchants Association.

THE CHAIRMAN: Then, Mr. Deachman, you may proceed with your brief. You may make any comment you like before you start to read it.

MR. DEACHMAN: If it is agreeable to the Commission, we would prefer to read through the brief without comment and then make comment after that.

THE CHAIRMAN: Just as you prefer. Sometimes there may be points that may occur as you go along upon which you would like to comment. However,

either procedure is satisfactory to us.

MR. DEACHMAN: Retail Merchants Association of Canada, British Columbia, is one of the provincial divisions of Retail Merchants Association. Its membership consists of approximately 1,000 merchants located in over 100 municipalities and centres throughout the province. In principal cities committees of the various trades have formed to deal with their specific association problems.

Although almost every class of merchant is represented in the association, the principal trade classifications organized into committees are food, radio, appliance and TV; men's wear and women's wear. No distinction is made between independent retailers and national corporations or chains within the association, although independent retailers form the majority of members.

The B. C. Association received its charter from the parent organization in 1919 and has operated without interruption since that year. Its head office is in the city of Vancouver.

2. Method of Approach to this Brief

From time to time some legislative step prompts retailers to get in touch with the office of the association requesting that some course of action be taken and that representation be made to the appropriate government body.

In determining what course representation shall take, the association sometimes polls members

to find out the exact wishes of retailers, although this is not usually necessary because constant contact with committees and individual merchants keeps the office of the association in close touch with opinion on any topic of major interest to merchants. Polls or committee votes are usually taken as a formality for the purpose of having an unequivocal expression of opinion on record, either for the information of the legislative body toward which representation may be directed or for the information of members.

No other series of reports and papers issuing from a government body have evoked more interest among B. C. retailers than the series beginning with the MacQuarrie Commission report, and seldom has the opinion of retailers been easier to ascertain.

Through letters, individual interviews and committee votes, these opinions have been known to the board and management of the association from the time of the releasing of the MacQuarrie report.

When the association learned, therefore, that the Restrictive Trades Practices Commission would invite reports and opinions on the subject of loss leaders, a committee was formed to prepare a brief and to make personal representation to the Commission in the event that it should decide to hold hearings in British Columbia. This committee is composed of hard goods, clothing and food

retailers, each of whom is prominent in his field of retailing and in the work of the association.

To determine opinion of members a poll was taken and comment was invited from every association member. The results of this poll and comments received will be discussed in the brief.

Definition

1. Commodities Minimum Loss Act

The committee was not without precedent in approaching the question of loss leader legislation, for British Columbia is one of a few provinces to have a loss leader Act upon its statutes. This statute, The Commodities Minimum Loss Act, is appended to this brief as "Appendix A."

The Act is designed to restrain grocers and meat dealers from selling "at a price less than 5 per centum above the cost." It provides that if a grocery item is sold "contemporaneously with a gift of any commodity" it shall be deemed to be a violation of the Act. And it provides the Lieutenant-Governor in Council with power to establish meat charts and names for retail cuts and to enforce their use and to prohibit the use of other charts and other names for retail cuts.

Evidence of the difficulty of implementing legislation to restrain the users of loss leaders is found in the history of this statute. To the best knowledge of this association no case has ever been brought before the courts

under this Act, although there is little doubt that provocation has never been hard to find.

2. Characteristics of a loss leader

There is little that this committee could add to the lexicography on the subject that is not covered in the Restrictive Trade Practices Commission's exhaustive paper on "Loss Leader Selling." While some of the points covered by the committee may be repetitious they are set out in this brief as the considered opinions of the committee:

a. Its predatory nature

It is particularly predatory toward other merchants when a merchant chooses as a loss leader an item which he does not normally stock. It is predatory toward the public when it is not intended that the item be sold in quantity and indefinitely at a loss, but only to the extent that it will attract customers into the store as prospects for sales of more profitable merchandise.

Examples of predatory selling of merchandise, not normally stocked, appear in advertisements in "Appendix B" to this brief.

An example of tongue-in-cheek selling to the public appeared in a recent Better Business Bureau release which told of a group of appliance salesmen who instituted a system of fining the salesman who sold a regularly advertised loss leader.

Loss leading may appear to take place when a merchant sells at or near landed cost an item which he normally stocks, for the purpose of creating traffic. In such cases the predatory element is missing because it does not constitute an attack upon the price structure of a class of merchandise which he does not generally stock and it may be argued that he has offered the public a bargain. The following word-of-mouth story will serve to illustrate:

> An independent department store merchant in Eastern Canada was famous for his periodic Monday morning bargains in women's coats, suits and dresses. It is said that he would buy distress stock, mark it at landed cost or within a few cents of it and put it on his racks in the dress department. Salespeople from other departments, which were slack at that time, were brought in to take orders during the rush. The customers got bargains. The store gained traffic at a time of traditionally low traffic. The sales met the retailer's costs, or close to it. The manufacturer disposed of his distress stock.

While it may be argued that this retailer sold at cost, or close to it, his actions miss

the definition of loss leading in that he did not loss-lead a product of another retailer which he was not accustomed to stock, and he did not attempt to deceive the public. His bargain days were well known. He did not conceal the fact that quantities were limited. He did not attempt to divert customers to other merchandise, but traded only upon the traffic which these sales inevitably brought to other departments as the women emerged triumphant, or otherwise, from his bargain counters.

This form of selling, the retailer's legitimate and honest offer of a bargain, should not be confused with predatory loss leading, in the view of the committee.

b. Its relationship to selling price

Each retailer looks at price through different eyes. Most drug stores, appliance and hardware stores, and tobacconists, must operate on larger markups than self-service supermarkets. Thus the supermarket is in a position to enjoy a profit on toiletries, proprietary drugs, tissues, small appliances and housewares, and cigarettes, by handling them on a self-service basis, which the traditional outlets for these wares cannot.

Similarly the discount house, which offers to do nothing but sell an article for cash can vastly undercut the traditional

retailer of major appliances who must add the cost of display space, heavy advertising costs, service, downtown occupancy rates and a high proportion of salaries to his selling cost.

These are natural developments in the field of selling. The periodic appearance of innovations such as self-service, pre-packaged merchandise, vending machines and discount houses, offset the concentration of merchandise in the hands of retailers who tend to add, year by year, to the services attendent upon selling, and hence upon markups.

A loss leader, therefore, if looked upon only from the standpoint of selling price, may only be a loss leader in the eye of a competing merchant.

c. Its relationship to cost

The defining of a loss leader according to cost, or landed cost, or landed cost plus a reasonable markup for handling, has its dangers. Prohibition of loss leading may protect or shield the weak operator. It may interfere with the development of merchandising processes which tend to reduce markups. It may interfere with the reduction of distress merchandise. It may infringe upon the retailer's legitimate practice of holding sales and bargain days. It may subsidize the

retailer. It may peg the price of goods.

3. Other Forms of Predatory Retailing.

It is a belief of this committee and a part of the argument set forth in this brief, that loss leading is only one of several forms of bait used to lure the public toward profitable merchandise. In effect, a loss leader is a form of advertising, or promotion, or traffic stimulator, and as such, does not differ materially from other promotional forms which are in themselves deceptive, concealing, or predatory.

The Better Business Bureaus are in a better position to describe such promotions than is this association, for their purpose is to acquaint retailers and the public with the day to day schemes of those who operate on the lunatic fringe of merchandising.

Some intimation of the extent to which such promotions can go are shown in the scrapbook marked "Appendix B" to this brief.

Among the common and flagrantly deceptive words and phrases used in merchandise advertising in Canada today are:

Free

No Down Payment

Make Your Own Terms

No Interest

20 Per Cent Off

$60 For Your Old Ice Box

$11.95 With All Attachments

Each of these methods of attracting traffic are just as predatory as the loss leader. They make statements which are not true. They frequently attack the merchandising principles of other establishments.

There are many merchants who refuse to compete on similar terms with these advertisers, and who have succeeded in keeping their traffic and their profits.

One of the largest independent department stores in Canada, for instance, will not advertise a comparative price. A product, the founder and his successors have always claimed, is worth no more than the price asked.

Another department store will not permit the use of the word "Free" in its advertising, on the grounds that if an article is included in a combination offer, the total or unit price must cover the selling price of the combination.

4. Conclusions

Thus the committee is compelled toward the conclusion that a loss leader is only one of a number of unethical or dubious promotions for attracting the prospective buyer. It is predatory, but no more so than bait advertising or false and misleading statements.

It is difficult, almost impossible to define without penalizing the merchant who operates within the spirit and ethics of the law, in order to regiment those who operate according to the letter of the law.

Competition and the Indepentent Retailer

1. Introduction

Selling, reduced to its simplest terms might consist of: A approaching Y and saying, "I will sell you my bread at 21 cents a loaf." To which Y might reply, "I will offer you 20 cents, no more, otherwise I will continue to bake my own bread." Whereupon A would make his decision to accept or refuse the offer.

In such a simple transaction there is no predatory motive toward another retailer's business, for there is no other retailer. There can be little deception of the consumer, for if A's bread contains sawdust, this customer, Y, will disappear with the first slice.

In this simple world of commerce the protecting of the consumer would be costly and superfluous. Caveat Emptor is a sufficient check upon this kind of commerce.

When the market broadens and competition appears various devices are used to attract the consumer.

A advertises: Buy Superior Bread for uniform freshness, daily delivery. One price everywhere.

B says: Tests show people to be 21 per cent healthier after eating Acme bread because it contains H^2O, a secret health giving ingredient.

C says: Buy your bread from us for a month and receive a handsome bread box.

D says: Send your name and address along with a bread wrapper. You may win up to $5,000 in valuable prizes.

E says: Eat Joe's bread -- Nobody -- but nobody -- undersells Joe.

The housewife, viewing these attractions, must determine whether

A is holding up the price of bread unduly;

B is advertising falsely;

C is including the cost of another item in the selling of his bread;

D is making a false offer;

E is loss-leading and charging the cost of it to something else.

Naive as this simple example may appear, it poses the whole problem as to how much a government should intervene as a referee between the consumer and the retailer and how much should be left to the normal controls which people of good faith put upon themselves in an effort to provide honest merchandising and to stabilize their own corner of the economy.

2. <u>Position of the independent retailer</u>

Perhaps no other control upon market upheavals acts more surely or more steadily than a retailer's day to day efforts to find security.

Independent merchants may be self-made men, but for the most part they did not enter the market with an eye toward becoming heroes of commerce. They fell into their jobs upon the death

of their employers, or continued a second or third generation family business, or invested in a partnership at a time of financial crisis, or like Mr. C. L. Burton, began by sweeping up the floors of a wholesale warehouse.

The vast majority of them have no great reserves. Their incomes are not enviously large in terms of the incomes of wage and salary earners. In advertising they prefer to be honest rather than devious. When they buy they know that they must buy cautiously, for their businesses cannot stand sudden inventory losses. When they sell they prefer to apply a reasonable profit across the board on a steady basis, rather than to loss-lead on one article while making it up on another.

They are not, as Mrs. H. N. Vautelet, president of the Canadian Association of Consumers, suggests, engaged in a "visible and cynical exploitation."

The following figures taken from the D.B.S. biennial survey of retail operations, show how the small unincorporated Canadian retail business is run and what it may expect in salaries and profits.

In the illustrations given the proprietors would, in almost every case, be engaged in the daily management of their stores. Absentee owners in this bracket of retailing are rare.

For themselves, these working merchants

ask from 4.09 cents on the dollar in the case of combination stores to 10.75 cents in the case of shoe stores as their salary and profits (before taxes). In larger brackets of retailing these percentages are even less.

SMALL STORE OPERATING RATIOS FOR 1952

		Profit and loss (% of net sales)		
	Av. Net sales $	Gross profit %	Total operating expenses %	Net op. profit %
Combination Food Stores	$84,326	14.57	10.48	4.09
Grocery Stores	50,405	13.78	8.54	5.24
Meat Markets	68,402	17.54	11.40	6.14
Hardware Stores	56,710	25.91	15.46	10.45
Home Appliance, & Radio Stores	99,172	26.36	18.59	7.77
Furniture Stores	100,877	27.75	19.47	8.28
Family Clothing Stores	73,601	24.38	15.53	8.85
Men's Clothing Stores	68,960	26.64	16.57	10.07
Women's Clothing Stores	55,179	26.81	18.86	7.95
Family Shoe Stores	56,271	27.67	16.92	10.75

These figures are for unincorporated businesses.

Net operating profit is taken before proprietors' salaries and income tax.

Even these margins might provide security for the retailer if volume remained constant. But it doesn't.

The following table shows retail sales in B. C. for 1953, the gain or loss from the previous year and the share each class of retailer received from every $10 of the B. C. consumer's money.

	Total sales 1953 ($000)	% of change 1953/1952	Share in every $10
Grocery and combination stores	191,785	x 0.2	$ 1.57
Meat stores	22,167	x 0.7	.18
General stores	56,425	- 0.6	.46
Department stores	163,486	x 4.6	1.33
Variety stores	13,025	x 7.7	.11
Motor vehicle dealers	253,988	x 5.7	2.08
Garage and filling stations	51,784	x 8.8	.42
Men's clothing stores	15,592	- 5.2	.13
Family clothing stores	11,025	- 2.5	.09
Women's clothing	25,628	- 0.3	.21
Shoe stores	10,880	x 3.2	.09
Hardware stores	25,580	x 5.0	.19
Lumber and building materials	34,138	x 3.5	.28
Furniture	11,562	- 0.6	.09
Appliance and radio dealers	28,087	- 9.6	.23
Restaurant	52,288	- 0.4	.43
Fuel	14,740	-13.6	.12
Drug	28,268	x 2.4	.23
Jewelery	13,868	x 3.5	.11
Tobacco	5,263	- 4.8	.04
All others	197,576	x 3.8	1.61

Table (cont'd.)

TOTAL, All Trades	$1,225,155	x 2.5	$10.00

The table records fluctuations in volume from 13.6% below the previous year (fuel dealers) to 8.8% above the previous year (garages and filling stations)

Two classifications, motor vehicle dealers and garages and filling stations showed major increases in volume while taking 25 cents of every dollar of retail sales. Appliances, and clothing, which take a total of only 6.6 cents of every dollar of retail sales showed loss of volume in 1953.

The reason for this major shift in purchasing power is that credit restriction upon the purchase of automobiles was suddenly released. The consumer gorged on automobiles and gasoline in 1953, inflating sales in some trade categories and depressing them in others. This year the feast is over. The automotive trades are suffering a recession.

How much more orderly it would have been for the retailer and how much easier for the consumer if the natural flow of retail credit had not been restricted!

3. "Nobody, but nobody, undersells me"

Retail merchants are found in greater numbers and in more varying economic circumstances than any other class of proprietor or independent business man. They are the purest strain of

capitalism in the economy. They seldom ask for and hardly ever receive financial aid, subsidies, bonuses, tariffs or other economic crutches. Their day to day business, being closest to the consumer, is most sensitive to change. If A drops his price, B follows. If C says "No interest" or "No down payment" or offers an inflated trade-in, D will meet it.

While every store may not advertise "Nobody, but nobody, undersells me", the thought is never far from a retailer's mind, for a woman who sees an appliance which she has just bought, selling for less at another store, will promptly demand a refund.

Recently a grocer in Langley, a town in the Fraser Valley, dropped his price on a brand name salad dressing. He was reacting to a minor price war which had started when a grocer in New Westminster dropped the price and was immediately followed by a chain grocer across the street. In turn a competing chain met the price. Within a day or two the new price was effective throughout Vancouver and the Fraser Valley.

These minor battles, involving one item after another, occurring every day, are the determiners of price. Sometimes, usually to the sorrow of those involved, the skirmishes continue until an item no longer brings a profit capable of meeting the cost of selling. It becomes a loss leader.

Neither side, involved in these battles,

wants to continue them to a point where profits disappear, but the principle of "Nobody, but nobody" keeps the fight alive until public interest is lost in the item under attack, or until one party discontinues marketing that line of merchandise.

4. Brand Name Merchandising

One factor is common to almost every such price battle -- the merchandise involved bears a well known brand name. These national brand names are to independent merchants what traditional lines are to major chain and department stores.

Prior to the restrictions upon price maintenance the independent merchant could rely upon reasonable stability of price in these lines. Today the only retailers who have it within their power to stabilize rapid price fluctuations due to "spur of the moment" competition are national chains and department stores.

The situation is best described by E. G. Burton, president of Simpson-Sears Ltd., in a recent address to the Canadian Life Insurance Officers Association:

> "While my company, with the development of its own brands, is not affected to any great extent, it is a most serious threat to thousands of legitimate small retailers who are really the backbone of the distribusion system,as far as manufacturers of nationally advertised lines go.

These manufacturers should know, if they do not already, that these dealers are in real danger of being forced out of business.

I call them legitimate dealers because they are the kind who stand behind the merchandise they sell and service it when anything goes wrong. I repeat that many of them are in real danger of being forced out of business by this well-meant, but unfortunate legislation in favour of a distributor who thinks mainly in terms of a quick profit today and cares little about the customer, tomorrow."

5. Wholesaler-Consumer Selling and Discount Houses

Wholesalers, according to tradition, are supposed to sell to retailers and to leave the matter of selling to consumers to those who operate retail establishments.

Direct wholesaler-consumer selling is, however, a constant source of competition to the retailer. An example will illustrate:

In Prince George a person walked into an appliance store and questioned a salesman about refrigerators, noting the price and details of several models. He then contacted a friend employed with a logging camp, which purchased at wholesale for its employees, and obtained the refrigerator of his choice from that source, paying the wholesale price.

Superficially, it may be argued that the consumer obtained a bargain and, therefore, he and the community were better off. In fact, this is what happens: The retailer acts as demonstrator for the merchandise while the wholesaler makes the sale. The retailer, therefore, has borne the retail selling cost of the merchandise.

Unable to purchase directly from the manufacturer, the retailer is in no position to compete with the wholesaler, and so eventually, if wholesaler-consumer selling of a line continues on any serious scale, he must discontinue the line to cut his costs. Once the retail outlet no longer carries the line, or no longer carries complete models, parts and service, the wholesaler must either continue to pick up what sales he can or provide identical facilities to the retailer in order to expose the merchandise to the public. In effect, the wholesaler has used his buying prerogative with the manufacturer to drive the retailer out of that line of merchandise, but he has not escaped the fact that he must now bear the retailer's costs and do the retailer's work if he expects to maintain volume of sales.

The discount house, a recent development, operates in much the same manner. A story, currently going the rounds in Seattle, illustrates the discount house technique:

> A discount operator advertised in the classified pages that he was open for

offers on a new refrigerator, still standing in its crate. He is alleged to have sold 30 of these in less than a week for a profit of $10 each, delivered in the crate to the customer.

Now the retailer, who made these models familiar to the public through his advertising, display floor and salesmen, and who services and installs his appliances at something approaching cost, subsidized the sales of the discount operator.

This connivance between wholesaler or manufacturer and discount house operator eliminates the retailer but it cannot eliminate what the retailer does.

These devices -- wholesaler-consumer selling and discount selling are parasites upon retail trade. Even the peddler with his pack must make his calls, demonstrate his wares and absorb his whole costs in his selling price. Not so the wholesaler or discount operator, who could not exist unless acceptance for his wares had first been established by the retailer at the retailer's expense.

This summarizes the position of the retailer in British Columbia. Much of what has been said here is supported by letters and comments reproduced in appendix C to this brief and in the results of the survey of members of this association, shown in appendix D.

The general conclusions and general recommendations which follow, attempt to suggest a line of action designed to correct some of the very apparent difficulties described in this brief, without burdening the retailer with unnecessary restrictions or the government with unwieldy regulations and problems of enforcement.

GENERAL CONCLUSIONS

1. Dubious selling practices are increasing

There is sufficient evidence of the use of loss leaders and of the growth of deceptive methods of advertising and promoting retail sales to warrant giving serious consideration to the subject.

2. More than loss leaders involved

The loss leader is not alone as a dubious device for promoting sales, nor is it necessarily the most dubious of a number of promotional techniques.

3. Definition is difficult

Neither loss leaders nor advertising or promotional tricks can be exactly defined in a way that will not be discriminatory toward some very legitimate trade practices, or will not shield the weaker operators in the retail trade.

4. Attack brings retaliation

When goods become plentiful and competition becomes keen there is a tendency upon the part of some to use anti-social methods to advance their business, and a natural tendency upon the part of others to retaliate in kind.

5. Evidence of chaos

There is ample evidence in the tremendous interest shown by retailers in the loss leader inquiry; in the numerous letters appended to this brief; in daily reports of rapidly fluctuating prices; in retail statistics and in the overwhelming response to this association's questionnaire (Appendix D), of chaos in the retail trade.

6. Discriminatory aspect of R.P.M. Legislation

The ban upon price maintenance, well intentioned though it may have been, discriminated against the independent merchant who relied upon the stability of branded goods for his stock-in-trade, in that it created instability in some sections of the retail trade but not in others, as outlined by Mr. E. G. Burton.

7. Legislation needed

These general observations lead toward the final conclusion that some form of federal legislation or amendment or revision of existing legislation should be promulgated which would:

(a) Provide a check upon the indiscriminate and anti-social use of loss leaders and unethical advertising practices.

(b) Enable a retailer, who felt his establishment or one of his lines of merchandise under attack by another retailer, to seek some suitable form of redress.

(c) Afford some protection to the retailer from parasitical sellers whose businesses could

not exist unless retailers absorbed their selling costs by keeping merchandise on continuous display.

(d) Remove the discriminatory aspect from R.P.M. legislation or free the hand of the independent retailer to the extent that he could, in some measure, stabilize price of his branded lines without combining to raise price or to prevent competition.

GENERAL RECOMMENDATIONS

1. Advertising and Promotion

It is recommended that the laws and regulations governing the use of advertising be more rigidly enforced and that, in particular, the government give consideration to some form of legislation restricting the use of exaggerated claims regarding interest payments, down payments, trade-in values and comparative prices.

2. Loss Leaders

It is recommended, particularly in regard to food retailing, that the government give consideration to some form of legislation which would make it obligatory upon any retailer to supply, on request, to any other retailer any item at the same price at which the said item is made available to the consumer, less an appropriate wholesale discount, subject to qualifications permitting legitimate clearances.

Such legislation would provide retailers with an effective means of curbing deceptive

practices without the necessity of elaborate enforcement by government agencies.

3. Wholesale-consumer selling

It is further recommended that similar legislation be made to apply in the case of wholesaler-consumer selling and discount selling.

4. R.P.M. Legislation

Finally, it is recommended that the existing resale price maintenance legislation be amended to the extent that a manufacturer, upon application to the Department of Justice, could obtain a licence enabling him to make vertical arrangements with his distributors to stabilize price on competitive items; provided such arrangements and such licences were subject to inspection and review with a view to preventing lateral combines in similar lines of goods.

In making this final recommendation it is felt that any amendment or revision should attempt to steer between the present legislation, which destroys franchises, discriminates against the smaller retailer and mitigates against the integrity of branded products, and U. S. Fair Trade legislation which attempts to enforce fair trading in the courts, rather than by leaving the problem to manufacturers and their outlets to settle upon the basis of gentlemen's agreements and the current state of the market.

CHAPTER 219

AN ACT RESPECTING A MINIMUM LOSS FOR COMMODITIES

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:-

Short title

1. This Act may be cited as the "Commodities Minimum Loss Act." 1937, c. 51, s. 1; 1939, c. 34, s.3.

Interpretation.

2. In this Act, unless the context otherwise requires:-- "Butcher meat" means the flesh of any animal used for human food:

"Commodity" means any subject of commerce:

"Cost" means purchase price plus cost of transportation from the place of purchase to the retailer's place of business, customs and excise duties, and sales tax, if any; and for the purpose of this definition "purchase price" in respect of any grocery product shall mean the price at which that product is offered by wholesalers to retailers generally; and where any price offered by a wholesaler is restricted to a single retailer or to a limited number of retailers that price shall be disregarded, and notwithstanding that any retailer buys at any such restricted price it shall nevertheless be deemed that the purchase price so far as he is concerned is the same as the price offered to retailers generally. Where there is a variation as among wholesalers in the price at which any grocery product is offered to retailers generally, the lowest price so

offered shall, for the purposes of this Act, be deemed to be the purchase price to any retailer regardless of the price in fact paid by him:

"Grocery product" means any commodity that is comprised in the stock of goods of a person carrying on business as a grocer, but does not include any commodity in respect of which a retail price has been fixed pursuant to any Act of the Province or of the Dominion.

"Retailer" means any person who offers for sale, sells, or keeps for sale a product or commodity to consumers for use:

"Retail meat-dealer" means any person who offers for sale, sells, or keeps for sale fresh, frozen, or cured butcher meat to ultimate consumers. 1937, c. 51, s. 2; 1938, c. 40, s. 2; 1939, c. 34, ss. 2-4; 1940, c.30, s.2.

Prohibition of selling at less than 5% above cost.

3. No retailer shall offer for sale, sell, or keep for sale in the province any grocery product at a price less than five per centum above the cost of the same to the retailer. 1937, c. 51, s. 3; 1938, c. 40, s. 3; 1939, c.34, s. 5; 1940, c. 30, s. 3.

Application of Act.

4. This Act shall not apply to sales by a trustee in bankruptcy or a receiver under the "Bankruptcy Act" of the Dominion or a liquidator under the "Winding-up Act" of the Dominion, or a Sheriff, or by judicial process, or a sale

to which any order, rule, or regulation mady by any board constituted under the "Natural Products Marketing (British Columbia) Act" is applicable; or to sales of damaged goods sold at a price proportionately reduced because of such damage and not merely reduced in evasion of this Act; or to any general sale of commodities in a store or premises where the retailer is actually retiring from business or moving to other premises; or where the retailer is discontinuing the distribution of the line of goods so being offered for sale; or to any other general sale at a price reduced because of some special conditions or circumstances and which in the opinion of the Court is not reduced for the purpose of defeating the provisions of this Act and is not contrary to its intent and purpose. 1937, c.51, s.4.

Provision in case of perishable goods.

5. Notwithstanding the provisions of section 3, where any commodity in a retailer's stock of goods has become immediately perishable:-

(a) If his place of business is in an area for which an Inspector has been appointed pursuant to section 8, he may, with the consent of the Inspector, sell such commodity at any price approved by the Inspector:

(b) If his place of business is not in such an area he may sell such commodity at any price he thinks proper. 1939, c. 34, s.6.

Sale of food product in certain combinations an offence.

6\. The sale of a grocery product in combination with any other commodity at a combined price or at prices not applicable to the purchase of the commodities individually, or a sale of a grocery product contemporaneously with a gift of any commodity, shall be deemed to be a violation of section 3 of this Act: Provided that if the grocery product is sold in combination only with other grocery products, such sale shall not be deemed to be a violation of section 3, in the case of any prosecution for violation of this Act, if the retailer accused proves that the total price charged for the combination is not less than the aggregate of the prices at which each of such grocery products might lawfully be sold by him under this Act. 1937, c. 51, s. 5; 1939, c. 34, s. 5.

Retail meat-dealer shall not sell at less than 5% above cost.

7\. (1) No retail meat-dealer shall offer for sale, sell, or keep for sale in the Province any fresh, frozen, or cured butcher meat at a price less than five per centum above the cost of the same to him.

"Cost" defined.

(2) For the purpose of this section the definition of "cost" in section 2 shall not be applicable; and "cost" shall mean the purchase price plus cost of transportation from the place of purchase to the retail meat-dealer's place of business

plus duties and sales tax, if any; and for the purpose of this definition the purchase price of any cut of meat sold at retail shall be determined by reference to the appropriate retail price-selling chart approved pursuant to subsection (3) and showing the allocation of the total purchase price of a carcass among the various cuts derived therefrom; and the purchase price of a carcass shall mean the price at which a carcass is, as of the date on which a sale is made by the retail meat-dealer, offered by wholesalers to retail meat-dealers generally; and where any price offered by a wholesaler is restricted to a single retail meat-dealer or to a limited number of retail meat-dealers, that price shall be disregarded; and where any retail meat-dealer buys at such restricted price it shall nevertheless be deemed that the purchase price, so far as he is concerned, is the same as the price offered to retail meat-dealers generally. Where there is a variation as among wholesalers in the price at which carcasses are offered to retail meat-dealers generally, the lowest price so offered shall, for the purposes of this Act, be deemed to be the purchase price to any retail meat-dealer regardless of the price in fact paid by him.

Power of Lieut-Gov. in Council to approve charts

(3) The Lieutenant-Governor in Council shall have power by regulation to approve charts for the purpose of subsection (2) and from time to time to approve of alterations in such charts. The provisions of subsection (1) shall not apply in respect of the butcher meat of any kind of animal unless a chart in respect thereof has been approved under this subsection. 1939, c. 34, s. 7; 1940, c. 30, s. 4.

Power of Lieut. Gov. in Council to appoint Insp.

8. The Lieutenant-Governor in Council may appoint an Inspector for any defined area in the province, and any person so appointed shall have power to give consent under section 5. 1939, c. 34, s. 8.

Power of Lieut.-Gov. in Council to make regulations.

9. The Lieutenant-Governor in Council may from time to time make regulations:-

(a) Establishing names to be used to designate the different cuts of butcher meat sold by retail meat-dealers in the province for use in the province; and

(b) Providing that no retail meat-dealer shall apply to any cut any name other than the name assigned to it. 1940, c. 30, s.5.

Prima facie evidence of purch. price

10. In any prosecution for violation of this Act it shall be prima facie evidence of the purchase price of any commodity if there is produced a price-list purporting to be issued

by any wholesaler in the province in which there is stated a price at which that commodity is offered to retailers generally or to retail meat-dealers generally; and it shall be prima facie evidence of the price at which any retailer or retail meat-dealer has offered any commodity for sale if there is produced a newspaper or a circular containing an advertisement purporting to be on behalf of that retailer or retail meat-dealer in which that commodity is offered for sale at a price named therein. 1937, c. 51, s. 6; 1938, c. 40, s.4; 1940, c. 30, s.6.

Prima facie evidence of sale at less than 5% above usual price.

11. In any case where a retailer sells a grocery product at less than five per centum above the price at which the product is usually or regularly sold by the manufacturer or producer thereof, it shall be prima facie evidence in any prosecution under this Act that such sale by the retailer is in contravention of section 3. 1938, c.40, s.5; 1939, c.34; s.5.

Offence and penalty for deception as to price.

12. Any person not a "seller" within the meaning of section 2 of this Act, who by a series of transactions through various persons attempts in any way to fix a cost price of a grocery product to himself or to a retailer, which under all the circumstances is not bona fide or is intended to deceive as to the price

at which the product is usually or regularly sold by the manufacturer or producer thereof, shall be guilty of an offence against this Act and shall be liable, on summary conviction, to a penalty not exceeding five hundred dollars. 1938, c.40, s.6; 1939, c.34, s.5.

Penalty 13. Every person violating the provisions of this Act shall be guilty of an offence and liable, on summary conviction, to a penalty not exceeding five hundred dollars. 1937, c.51, s.7.

--- APPENDIX "B". (Only one copy of this was prepared for submission to the Commission.

With regard to the loss-leader inquiry, I think the Retail Merchants' Association should make a submission dealing in particular with the predicament of the small merchant in facing the cutthroat competition which exists at the present time and is likely to get worse in the immediate future.

I have always felt that the manufacturer should have some say in what happens to his goodwill and trademark by virtue of the prostitution which is caused by loss-leaders. It does seem to me that the manufacturer, in setting a minimum price, will be guided by the fact that, to get consumer acceptance and volume, he will want the resale price to the consumer as low as possible and that should be a safeguard as regards exploitation. It is a well-known fact that unbranded and unadvertised commodities are now being offered for sale because there is no profit in many cases on the advertised lines.

I cannot define a loss-leader because every item, depending on turnover and inventory, would need a different markup, and I feel that we shall, eventually, have to come to some kind of a fair trading policy.

G. T. Cunningham
Cunningham Drug Stores Ltd.
Vancouver, B.C.

The legislation preventing resale price maintenance has hit us here badly as we cannot possibly compete with the drastic price slashing that has been going on in the large centres. The small retailer in the outlying towns not only pays more because he buys in small quantity but has to pay the extra transportation charges out of his profit, and the cost of transportation on this coast is about double what it was six or seven years ago. Freight on a standard washer used to be between $4 and $5 -- it is not $8 to $10. With price maintenance we could absorb this expense and get by. With no price maintenance (and the resulting price slashing) we cannot compete, and this unjust legislation is sounding the death knell of the small independent retailer wherever he may be.

Our hopes and best wishes for success go with your committee in their efforts to right a terrible blunder.

W. S. Noble
Noble's Radio & Appliances
Prince Rupert.

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I don't think the public are getting a fair deal since price maintenance was dropped. At present it is necessary to add considerable to the reasonable list to allow ridiculous trade-ins to meet competition. The result is

that there is no guide to values and the public is being confused by the use of old time medicine man tricks to get their dollar ....

Previous to the repeal of the maintained price law a manufacturer was able to police his outlets and see that the public was given a good article at a reasonable price. I never could see how our government could say that they were protecting the consumer when this law was repealed. The only one they protected was the shyster retailer. He is now able to use misrepresentation advertising without restriction showing false models etc., and it is impossible for the police to stop him. However, when the manufacturer did the policing a very effective weapon could be used in denying him the stock.

Alex Gammie - General Store
Lytton

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The removal of Retail Price Maintenance has caused the following things to happen, from our observations:

1. Confused the public through wild price fluctuations
2. Resulted in lower sales
3. Reduced our purchases
4. Reduced our profits

A government which on one hand supports free enterprise, and the profit system, by legislation

supports certain classes and protects them from inequities, on the other hand seeks to crush another section of our economy, by trying to remove the right to make a fair and just profit.

We definitely need a "Fair Trade Law".

Miles Hardware Ltd. - Nanaimo

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It has been amply proven that manufacturers price maintenance results in orderly marketing of a quality product.

N. S. Dalgleish Ltd.,
General Store-- Kamloops

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If we don't get price control, the small stores will have to go out of business.

Kitsilano Hardware Co. Ltd.
Vancouver

We are in favour of restricting loss-leader selling. G. F.

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Why should we have to allot space to cigarettes for such a small profit?

Holley's Food Market -- Vancouver

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The less government restrictions, the better.

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I am not in favour of any more restrictive legislation. Surely a manufacturer has a right

to protect his own product on the market.

R. C. Runge - Ladies' Wear
Vancouver

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It's dishonest merchandising.
Customers do not benefit - have no protection to price values as when legitimately and fairly priced by manufacturers.

Home Furniture & Appliance Co. Ltd.
Vancouver

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If something is not done about loss leaders and going back to price maintenance right away, there will not be too many small dealers left to worry about.

Kitsilano Electric Co. -- Vancouver

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We feel that departmental stores should not be given preferential prices by dealing direct with the factory. But should have to buy at the same price or through the same outlets as the small retail store.

West Van. Hardware -- West Vancouver

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Most up and coming merchants today can meet any price in the grocery business, but definitely at the cost of holding down wages, reducing hours of work, and generally cracking the whip as the large chains do, but it is not a

desirable way to do business, as most of our employees live in the district with us, and are part of the community, and do community work with us. But we have made up our minds we will not be undersold by any large chain.

Fearn's Grocery -- Vancouver

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We are better off regulated by the manufacturer.
Yes to No. 1 (except - only on items to clear out)
We are in favour of the previous regulations.

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Certain well known products are becoming footballs in a merchandising fracas that makes the average customer feel that merchants are robbers when they fail to fall in line.
We advertise "we service what we sell" and this is impossible if there is no markup and depreciates good merchandise.

Home Variety & Electric - Alberni

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When I was a small boy in rural Ontario, it was the hope of every boy to some day possess a Waterbury dollar watch. Through time department stores cut the price to 75¢ (wholesale cost at the time) -- then jewelers met this price and fought each other till eventually it was selling for 39¢ in some places. Result, few would

handle them and the Company had to cease making them. Had they had the right to make a resale price of $1, which for a watch was fair, they could have continued in business, giving employment to their workmen instead of having a large loss on their investment. Besides, as there is no greater barrier to trade than high prices no company is going to put a resale price on their goods that would mitigate against consumer sales. They usually set a price as low as the commodity can be legitimately sold for,so that their sales may be as great as possible.

Thos. King -- General Store
Golden

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I don't think it is fair for newspapers, Robin Hood Flour, Radio Stations etc., buying bicycles direct from manufacturers and then using for leaders, prizes etc. For example, Robin Hood Flour has a bicycle on top of car (fixed) advertising their flour and giving away a bicycle every week over the (air) Radio. Do you know of anything kicked around more than a bicycle to draw business for other firms who do not sell that line of merchandise?

C. H. Bishop -- Langley

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Present legislation plays into the hands of the big chains and Woodwards, Eatons and H. B. Co.

As at present manufacturer has no voice in maintaining prices on any of his lines.

E. Openshaw -- Variety Store
Vernon

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My experience has been that the wholesaler (previous to the change) in my line of business allowed the merchant (retailer) a fair margin. We knew and our customers knew just what they were going to pay for it. Now what -- It's a case now of a price from invoice to invoice, up or down, who knows.

E. Homewood - Meat & Grocery
Port Alberni

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Unrestricted loss-leader selling by certain Vancouver firms has practically stopped the sale of TV sets out here in Langley. Not that the people of Langley are flocking to Vancouver to get these "bargains", but it has created a condition of c.nfusion regarding price with a lot of real potential buyers now postponing a purchase because they have gotten the idea that the price may even go lower still.
This store has been in business since 1924 and until two years ago was exclusive Radio, now it is TV and Radio. During the past two years we have been busy all the time with TV and have sold every set at the manufacturer's suggested price, never cutting the price one nickel. The

full profit on each deal has been made, we therefore have been able to give good service and spend a little time with our customers where it has been necessary, the result has been without exception, Satisfied Customers. When prices are cut, the "cutters" can't possibly give service, therefore they place the whole TV structure in jeopardy. The only gain is that certain outfits have the pleasure of reading their "ads" and telling themselves that nobody, but nobody undersells them.

Easingwood Radio & TV -- Langley.

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Our comment on this whole piece of business would be that if the briefs now being presented all over Canada to the Commission receive no more thoughtful consideration than those presented when the question first arose and was made into law, then we cannot hope for too much consideration from them.

If, after having been presented with indisputable evidence of the basic fairness of set prices, the government goes ahead and bulls it through anyhow, then this Commission looks like a feeble effort to prop a structure that was a feeble effort to start with.

As a small retailer the writer feels that if prices get out of hand on some goods, where a cartel may be operating, then it is at this level that the government should work to

protect the public, not at our level.
We have been fortunate so far, in having the large wholesale and retail combinations behaving fairly well, but God help us if they decide to close the small man out, because the legislation now in force works for them, as it would appear it was never designed to do anything to help the public or small merchant.
There's our 'beef'. Good luck.

Ken Hunter, Hunter's Pharmacy
Salmon Arm

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I believe that bad conditions here are worse and more widespread in Vancouver. Trust you will be successful in regaining the fight of the manufacturer to have price maintenance on his own products.

Bedford's Drug Store - Salmon Arm

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Just what is a loss-leader in a legal sense?
Is it - selling goods below actual cost?
Selling goods at a profit but below normal resale value?
How does it affect a merchant who was able to buy name brands, at a fire sale, bankrupt stock, or an insurance claim, and still able to sell at a good profit, but way below normal market prices.
In an over-all picture "Price Maintenance" tends

to create a more stable market, and gives the small merchants an even break. But would large buyers tend to favor manufacturers who do not insist on price maintenance for their products, to the disadvantage of those who do?
This for your consideration.

E. Edwards, City Meat Market
Vancouver

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We are being forced to discontinue selling such items as Sunbeam Shavers because of the "rat race" on them, in fact we don't even carry them in the store despite the fact that at one time we sold them five to one over all other shavers combined. I'm sure tha t Sunbeam is not selling any more shavers than before.

B. H. Brown, Yarwood Drugs Ltd.
Squamish

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These two factors are very hard on the smaller retailer -- there are plenty of items that can be used for special sales events without destroying the branded lines which are the "bread and butter" of many smaller stores.

C. Gardner, President
John-Cliff Dry Goods Ltd.
Cumberland

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Further to your letter of June 1st, in our opinion business conditions could be made much

more satisfactory if our government would establish definite price control on all major appliances, not allowing any discounts or loss leaders of any kind.

Such legislation would eliminate all unfair conditions and would assure all retailers of a reasonable chance of success in the operation of their business which they do not now have.

Kimberley Hardware Co. Ltd.
Kimberley

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This practice of loss leaders might not be so serious if merchants used only staple stock as such, but so often they use some other merchants' bread and butter line which to them is only a side-line and means little if they do not make a profit on that item whereas they make sure they get their required markup on their regular stock.

What to me is many times more serious a thing is this growing practice of bonus offers by large manufacturing or distributing firms offering as a special come-on feature some other item at a fraction of what it can be purchased regularly from a normal retail outlet. The five scissors offer by a cereal company, I think, is at only a portion of the regular retail price.

If the above mentioned companies can place such items in the hands of the consumer at such

reduced prices, then, surely they must be grossly overcharging the consumer public. To me this is a greater breach of fair play than the straight loss leader. I believe that if these companies can reduce their profit in this manner and still maintain high prices they should be forced to reduce the price of their commodity to where it should be and let the customer buy with that saving the things he would like to buy on a competitive style and quality basis, and not have to take as a bonus a set item.

Regarding item No. 2, it (price maintenance restriction) is effective only in that it prevents a supplier from dropping an account if in the eyes of the supplier he (the retailer) appears to be cheapening a product where a manufacturer has spent years to build a quality name for it. Otherwise I feel that suggested retail prices tend to allow all merchants, large or small, a reasonable profit.

R. Wellwood,
Roy's Men's Wear,
West Summerland, B. C.

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There may be legislation preventing resale price maintenance but if so it does not mean anything as it is practised by many firms. With most it is all right as they allow a mark-up percentage allowing the merchant to stay in business. However, some do not allow enough

markup and are therefore making their necessary markup at the expense of the retailer.
I quote the worst example is The Great Western Garment Co., Edmonton, Alberta. Here are some examples:

> No. 557 Red strap overalls cost $40.25 plus tax equalling $3.65 landed. They put a retail price on it of $4.75. With 40 per cent markup only it should retail at $5.10.
>
> No. 516 Cowboy Kings at $46.40 per dozen plus tax equals $4.11 landed if there is enough for a freight prepaid order they mark it $5.65 against $5.90 at 40 per cent markup. In the drygoods merchandising you cannot stay in business at less than 50 per cent markup and then only by really streamlining your overhead.

The above remarks state my answer to your second question.

Bryant & Hill -- Men's Wear
Penticton

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I am in favour of price maintenance because it will help to change the appliance business from a gang of lying, cheating, confidence men trying to put something over on the gullible public, into a respectable business offering a service to the public. If this does not happen, small business will cease to exist.

Gavin Wood - Appliances
Campbell River

If some measure of price maintenance is not restored, the economy of Canada could be seriously affected in the future. The government now knows this and if enough pressure is brought on them they will likely restore price maintenance.

H. E. Woodland - Druggist
Courtney.

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If something is not done real soon, the small businessman may as well fold up.

Robertson's Hardware -- Vancouver

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The passage of a bill by the Canadian government to make it unlawful for a manufacturer to set a price on his goods, is a contravention of established business practice, and individual freedom. If it is considered necessary to protect the public from exhorbitant prices it should be just as necessary for the government to appoint a commission to set up a fair and equitable price structure for the benefit of manufacturers, retailers and public alike.

A. Gladwin, Gladwin Electric
North Vancouver.

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Yes, to No. 1, so long as it is not done indiscriminately. Maintained price lines do not carry excessive profits.

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Re No. 2 -- Manufacturer's price tag on garments being, certainly for the West, the lowest possible price for a reasonable margin of profit, inspires buyers confidence that they are paying no more than elsewhere.

Ramsden's -- Ladies' Wear
Revelstoke

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Might say that I would sincerely like to see some legislation put through stopping the price cutting below cost.

M. Richards -- Cranbrook

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Would like to see manufacturers set a fair resale price on his products.

G. M. Argue - Druggist
Oliver.

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I think we should call a general meeting and discuss the opening of discount houses in this city.

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QUESTIONNAIRE

This association mails a regular monthly bulletin to its members.

Sometimes questionnaires are inserted in this bulletin, accompanied by a stamped return envelope.

Returns from these questionnaires vary according to their interest to a particular trade classification or the urgency of the subject.

One of the most urgent of recent questionnaires was one concerning the application of the 5 per cent provincial sales tax. It brought approximately 350 replies from 950 questionnaires circulated, and was up to that time the record for the association in terms of numbers of replies and percentage of replies to the total circulated.

On June 1 the regular bulletin mailing contained the appended questionnaire on loss leaders. On June 16, the total number of questionnaires returned to the association office was 516 of the 968 which were mailed at the first of the month, a return of 53 per cent.

Of these questionnaires, 348 were mailed to Greater Vancouver members and 620 to provincial members. The return from city members was exceptionally heavy in terms of what is usually expected in this area.

The results showed 95 per cent of all replies in favour of loss leader legislation and 90 per cent opposed to the present restrictions upon price maintenance.

Replies came from every retail category and comment was included in many of the replies. These comments are contained in an appendix to this brief.

The summary of questionnaires is shown below.

All replies are on file in the office of the association.

THE RETAIL MERCHANTS' ASSOCIATION
OF CANADA, BRITISH COLUMBIA

304 Pemberton Building Vancouver 1, B.C.

June 1, 1954

Dear Member:

In early July the Restrictive Trade Practices Commission will open its hearings in Vancouver on the subject of loss-leader selling.

Your association has set up a committee to prepare a brief which it will submit to the Commission. In order that we may have your opinion to add to our brief, we ask that you answer the following two questions. A stamped, addressed envelope is provided to return your answers to us.

	Yes	No	No Reply
1. Are you in favour of legislation restricting loss-leader selling?	285	28	3

	Yes	No	No Reply
2. Are you in favour of the existing legislation which prevents resale price maintenance?	50	428	38

If you have any further comment or evidence to offer, which would be of assistance to us in preparing our brief, we would very much appreciate hearing from you when you return this questionnaire.

Yours sincerely,

Grant Deachman
General Manager.

THE CHAIRMAN: It has occurred to me, Mr. Deachman, that you may wish to comment upon these appendices at this stage of proceedings.

MR. DEACHMAN: The first, Appendix A, deals with the Minimum Loss Act. You will note that in the brief we say that to the best of our knowledge no case has ever been brought before the British Columbia courts in connection with this Act. I believe it is an ineffective and inoperative statute.

THE CHAIRMAN: Have you any information as to why no prosectuion has been taken or no action taken? Do you know the reason?

MR. DEACHMAN: I think probably it is because of the reluctance of a retailer to take action against another retailer under the Act. I think it is just a case of reluctance to do that.

THE CHAIRMAN: It does not give the Act

much a chance to operate, if that is the only reason, does it?

MR. DEACHMAN: No, it certainly does not. Perhaps Mr. Thomson could add something to that.

MR. THOMSON: There is an Act on false and misleading advertising on the federal statute books, and I think it is in about the same category, is it not? It has been on the statute books for many years.

THE CHAIRMAN: If you or your association knows, could you tell me the reasons behind the fact you have stated, that there have been no cases taken or started under this Act? For example, have you had advice from legal counsel that it would be almost impossible to prove a case, or has anything of that kind led to this result? Or is it that merely you think the retailers do not wish to place themselves in a position of attacking other retailers in the courts?

MR. THOMSON: I think any retailer would feel that it would affect his standing with the public if he were to take another retailer, a competitor of his, to court. It is not a very nice position to be put in as a competitor.

THE CHAIRMAN: But as an association, has that body considered doing it, in the interests of all the retailers?

MR. THOMSON: Quite often within an association you have both types of retailers existing.

THE CHAIRMAN: But if the association thinks something should be done about it, do you not think they might at least examine the proof, and take responsibility?

MR. DEACHMAN: I do not believe that the actual movement by an association to take one retailer into court in a case of this kind would be the function of an association of our kind. The association has within it retailers holding various views. If on behalf of one group of those retailers we took another group into court on an action, I think that would be the end of our association. In fact, I know of an association in the United States which has written a protective clause into its constitution, in which it is stated that they must not act in that capacity. It is a matter between one retailer and another retailer, but not for the association to take up against any particular retailer.

THE CHAIRMAN: Well, I understand that is one approach to it. But it seems to me it might be looked upon as one of the steps which the association might take to protect all its members.

MR. DEACHMAN: The duty of the association, sir, would be to review the statute, and to make recommendations in connection with legislation which could be enforced, or which would be more effective if it is weak.

THE CHAIRMAN: How could any legislation at this time be enforced if neither the separate

retailers nor the association of retailers will launch a proceeding? Somebody has to make the first move. Whom do you suggest should make it?

MR. THOMSON: Previously it was the manufacturer, but he is out of the picture now. He did it by suggesting a list price, and having his retailer stick to that price.

THE CHAIRMAN: I am speaking about legislation of this kind. Manufacturers never did anything about this legislation, did they?

MR. THOMSON: No, but a manufacturer could enforce a price structure at that time. There is a very difficult problem the minute you take it out of his hands, as to who is going to do it.

THE CHAIRMAN: What I am getting at is this, that you are suggesting certain legislation and I am wondering as to how any such legislation would be enforced. Apparently this legislation has not been enforced through the courts and, according to your statement, neither the individual retailer nor the association feels inclined to launch any such proceedings. If that is the situation, who is going to make a start in the proceedings under any legislation?

MR. GERIN-LAJOIE: The Attorney General.

THE CHAIRMAN: I was asking Mr. Thomson. Is the Attorney General, off his own bat, so to speak, to be starting litigation right and left? Somebody has to start the ball rolling, surely,

by making a complaint. And that person would no doubt be called upon to give evidence. I am wondering what views you have on that subject.

MR. FAVREAU: Enlarging upon that question, I see that under sections 8 and 9 of the Act the Lieutenant-Governor in Council is empowered to appoint an inspector for the purpose of the carrying out of the Act; and it is indicated that he may also from time to time make regulations. Are you aware as to whether or not there has been any inspector appointed, and as to whether any regulations have been passed under the Act?

MR. DEACHMAN: I know of no such
7) inspector, no.

THE CHAIRMAN: Of course the inspector under section 8 of the Act is only to give consent to the selling of perishable goods, and things of that kind.

MR. FAVREAU: But on that question, as to whether the government has tried to enforce the Act, itself ---

MR. DEACHMAN: I know of no such inspector. This question comes up in connection with retail meat charts, and so on. I am certain these are used by retailers as a guide in their business, but I do not think they are rigidly adhered to; and there is no enforcement of them.

THE CHAIRMAN: Coming to the meat picture, do you think where meat is purchased by the carcass that an Act of this kind, which prohibits sales at

less than 5 per cent markup, can be applied to individual cuts? You buy a carcass, one carcass, at a certain price per pound for the whole carcass. Different cuts are sold at greatly varying prices. How do you apply an Act of this kind -- or could you apply it -- to meat bought in that fashion by the retailer?

MR. DEACHMAN: I think it would be extremely difficult. It would be extremely difficult to apply, let us say, a 5 per cent arrangement on markup, or something of that nature -- or even zero -- to such a thing.

THE CHAIRMAN: Some cuts of a beef carcass are regularly sold at less than the price per pound for the whole carcass. That is, the retailer pays a price per pound for the whole carcass, and certain cuts are regularly sold by him at retail at a lower price than the price he has paid for the whole carcass, per pound. He makes up that difference of course by the sale of the highly priced cuts. That may be one of the reasons why, in the butcher business, nobody has attempted to enforce this Act.

MR. DEACHMAN: He is driven to do that by the housewife, is he not, sir?

THE CHAIRMAN: That is the traditional fact, that there are greatly differing prices for different cuts of meat. And because meat is very frequently, though not always, bought by the retailer, by the carcass, and because cuts are

then sold at all sorts of prices, from something more than a dollar a pound, down to a few cents a pound for the very cheapest cut, it may be a practical impossibility to prove that any particular cut of meat ha s been sold at less than 5 per cent above what the retailer paid for it. You might on the other hand say that you could prove that every cheap cut is sold at less than 5 per cent above what is paid on the carcass of beef. In that case every butcher in town would be prosecution every day of the week.

MR. DEACHMAN: That is right.

THE CHAIRMAN: So that it looks like a difficult thing to apply sinsibly to the butcher, at least. There may be some similar difficulties in the way of other branches of the trade in the application of this Act. I am trying to find out what is your view were the reasons for not applying this Act, which was obviously intended to prevent loss leaders in food products.

MR. DEACHMAN: I think in most cases of this kind the retailer is, first of all, reluctant to become involved in any kind of public action which would expose him to publicity in taking action against another retailer for something he considers bad practice or abuse of trade ethics.

I think the next thing that stops him is the difficulty of finding proof. Retailing is a very complicated thing. He would have

difficulty in pinning it down in such a manner as to have it effective and easily understood by the court and the public. Frequently that is the difficulty.

Another thing that stops him is that you have never seen anybody who attends to business during business hours to a greater extent than the retailer. If you wa lk into his store and want to talk to him, and there is another customer in that store, he has no time for you at all. From the time his doors open until they close late at night, he has to sell.

His position is altogether different from that of a person in a company who can wander off for coffee or take time off to attend to other things. In brief, he is in the class of dentists and doctors, whose feet are pinned to the floor.

So, first of all, he has not the time. And during his lifetime he has accustomed himself to attending to his own business and to letting other things go that he would like to do, but just cannot do. That is another reason he does not do it.

THE CHAIRMAN: I would think it may be -- and this is just an offhand expression -- that even though cost in the British Columbia Act is defined in a quite lengthy fashion, the proof of what actually was the cost to a retailer, with respect to a particular article, might be almost impossible

to prove in court.

MR. DEACHMAN: That is right.

THE CHAIRMAN: And that would seem to be a pretty important phase of it?

MR. DEACHMAN: Yes.

THE CHAIRMAN: Well, perhaps we have spent enough time on this Act, which does not seem to have been followed to any very great extent.

MR. DEACHMAN: They have a statute in Alberta which they keep referring to, and a copy of which I have before me. Has the Commission visited Alberta?

THE CHAIRMAN: Yes, we have heard of that Act.

MR. DEACHMAN: What was said in regard to the Act there? What is their feeling about their Act?

THE CHAIRMAN: I do not think we were told that no cases had ever been taken, but we were not given any evidence of any cases that had been taken. I suspect that none of these statutes has been used to any noticeable extent. We did not get a copy of the Act in Alberta. It was not supplied to us, as you have done here.

MR. DEACHMAN: I have a copy which I would be glad to give the Commission.

THE CHAIRMAN: It is in your file. We can get a copy from Alberta, without any difficulty.

MR. DEACHMAN: Then, turning again to the brief, there follows a considerable number of letters in the appendices, which came along with the questionnaire which forms the last appendix in our presentation.

Appendix C was most interesting, from our standpoint, because the association had never had a response to any questionnaire similar to the one which we received to this one. We ended up with something in the neighbourhood of 55 or 60 per cent. There were 968 mailed, and our final return showed something in the neighbourhood of 55 or 60 per cent replying. Normally, in any kind of return somewhat similar to this, we would expect to get back a much smaller proportion than that. The heaviest we have ever received was about one-third. Most of them run about 25 per cent.

Therefore, the reply we had to this one indicates the immense interest there is, not only in Vancouver but throughout the whole province of British Columbia, in regard to this question which is before your Commission, sir.

It might be interesting to glance at the different classifications of those who replied making comment, and the places from which they come. We find first the Cunningham Drug Stores Limited of Vancouver, followed by an appliances store in Prince Rupert, a general store at Lytton, a hardware store at Nanaimo, a general store at

Kamloops, a hardware company at Kitsilano, a food market in Vancouver, a ladies' wear shop in Vancouver, a home appliances company in Vancouver, an electrical store at Kitsilano, a hardware store in West Vancouver, a grocery store in Vancouver, a variety and electrical store at Alberni, a general store at Golden, and so on.

THE CHAIRMAN: I take it that at this time you do not wish to make further comment upon all these letters?

MR. DEACHMAN: No, I have no comment on them, except that we have used the letters as a guide in the construction of the brief to the extent that some form of legislation in regard to loss leaders was certainly demanded by the dozens and dozens of people who wrote to us, and by the extent of the reply to the questionnaire which we received.

Two factors stood out in the letters which were sent to us. First of all, it was clear that they were very much aware of the pinch of loss leading. They were almost, to a man, interested in some form of legislation which would prevent loss leading, and in some let-up or amendment to the present resale price maintenance legislation.

THE CHAIRMAN: I wonder if you were able to ascertain through these letters whether, when they use the term"loss leader" they define it in much the same fashion as you have used in this

brief. In the hearings we have held in other places we have had various definitions of loss leading. Sometimes they have been quite different in their nature from the one which seems to arise out of your discussion of the definition. That is, some of the instances you have given here as not being loss leadering, and not predatory, would have been included within the definition of loss leadering as we have had it defined in other places.

I am wondering if your retailers, in referring to the term "loss leader" are referring to a loss leader as you have defined it here, or refer to it in some other sense which would include a number of things which do not come within your definition. Have you any way of knowing in what sense they use the term?

MR. DEACHMAN: Some definitely did include almost anything which would be sold below their own selling price -- would include those things as a loss leader -- yes.

THE CHAIRMAN: That is what I was getting at.

MR. DEACHMAN: That is the extreme of the definition. On the other hand, we gathered together a number of people representing various trade categories and had a considerable discussion on what a loss leader actually is. And the salient features of that discussion were, first of all, that a loss leader is different in every retailer's eyes, and

that therefore it was very difficult to pin down exactly what it means. What might be a loss leader to one man certainly would not be a loss leader to another man. That was definitely brought out in the discussion.

It was also definitely brought out that, in looking for a definition of loss leader, we should not attempt to define it in a manner which would shield the weaker operator. That was clearly brought out in the discussion. Also it was brought out in the discussion that a loss leader was only one of several things which are happening, and which are linked together, and all of which could be lumped under the same heading as perhaps unethical retail selling practices, if you wish to describe it that way.

THE CHAIRMAN: Or unfair competition.

MR. DEACHMAN: Yes, or unfair competition. I wonder if Mr. Thomson would wish to add anything to that.

MR. THOMSON: Well, Mr. Chairman, being in the retail business I would consider that loss leaders do vary, as Mr. Deachman has said. In our case it would be something we would sell below our operating cost. Because obviously that would have to be borne by some other part of the business. But that does not necessarily mean that one of our competitors could not merchandise it at a lower basis, if he was operating a different type of business. I think

it should be made clear that it should apply to that individual's operations, and not to somebody else's.

THE CHAIRMAN: You would apply the question of whether a particular article is sold as a loss leader to the cost of each individual retailer, would you? For example, one retailer has an average cost of doing business of, let us say, 30 per cent. You would say that anything sold below that by him might be regarded as a loss leader. He would have to make it up somewhere else?

MR. THOMSON: Yes.

THE CHAIRMAN: He would have to make it up somewhere else. And if somebody else operated at less than 25 per cent, what he sold would not be loss leadering?

MR. THOMSON: As far as he is concerned, obviously it would not be. And the difficulty in the whole situation is not, as the government itself points out, to put an umbrella over the weak operator. I do not feel that the government has any intention of providing, let us say, subsidized prices for those of us who are not intelligent enough to operate at a low cost.

THE CHAIRMAN: We have not heard that suggested.

MR. THOMSON: No -- by a form of subsidy, or anything else. I think the thing to do is to try to arrive at an efficient operator's cost of

doing business. And if the government would allow a Fair Trade Act of some kind, whereby manufacturers would be allowed only to create a profit in there which would allow efficient operators to operate, not inefficient operators, it would be all right.

If I am 5 per cent out of line in my operations, then it is up to me to get down on my costs, or get out of business, provided it is fair competition.

As Mr. Deachman points out, an awful lot of it today is false and misleading, so far as advertising is concerned, and the public are tremendously confused. They are advertising comparative prices which, in many instances -- well, the comparative price is many years old, or perhaps a year or a year and a half old, such as existed when the government had the Excise Tax on. They are still showing those old prices. If the people themselves do not realize that that is not the regular price at somebod· else's store --

THE CHAIRMAN: That is deceptive advertising?

MR. THOMSON: Yes, that is deceptive advertising, and there is a law against it -- but nobody takes any action about it. The difficulty is, in any law as I see it, so far as federal or provincial government levels are concerned, any law becomes inoperative when nobody will take action under it. It has pretty well got to be the

trade itself which must police it. And the legislation which the government must have would be legislation to control that trade practice, rather than trying to control the individual operator.

The Alberta law and the British Columbia provincial law prove that -- that they are inoperative. And deceptive advertising -- the same thing applies -- you could charge somebody every day with respect to it, in connection with an advertisement appearing in some paper in this town. Nothing has ever happened to my knowledge, for many years. And yet that law has been on the statute books since I was a boy. It has been used very very seldom.

MR. FAVREAU: Would not that principle lead you to an application of uniform markup on each and every single item which is merchandised by one definite operator?

MR. THOMSON: It would come reasonably close to it, possibly so, because your average cost of doing business by an efficient operator should be approximately the same, should it not? Your figures from the Dominion Bureau of Statistics prove that, and also figures from the United States, and department store statistics.

THE CHAIRMAN: But not on every article.

MR. THOMSON: No, not necessarily on every article.

THE CHAIRMAN: Some things are turned over

very rapidly.

MR. THOMSON: Yes.

THE CHAIRMAN: You sell them every day in the week?

MR. THOMSON: Yes, that is right.

THE CHAIRMAN: Others you may sell on an average of once a week?

MR. THOMSON: Well, I happen to be in the appliance business. What we call hard goods do not turn over very fast. For instance, if your wife buys an iron she is not going to buy another for ten years, perhaps. It is not like you or me, when we buy bread or meat or cigarettes, which are turned over daily. Once you spend the time selling her on that article, it is many many years before she is in the market again. So that the cost of doing business is naturally higher than it is on cigarettes, where you and I may smoke a pack every day.

THE CHAIRMAN: What I am getting at in that connection is that one of the things which has to do with the actual cost of handling particular articles is the speed of turnover.

MR. THOMSON: Yes.

THE CHAIRMAN: There are other things, too, but that is one thing which might very well mean that, with regard to a particular item, the cost of doing business of a particular retailer might be less than it is with regard to some other article.

MR. THOMSON: That is right.

THE CHAIRMAN: And perhaps it would be higher on others?

MR. THOMSON: Yes.

THE CHAIRMAN: And it is hard to fix a uniform markup for everything, when that is a sort of natural incident in most lines of retailing?

MR. THOMSON: I was not quite meaning a markup for everything. I was thinking more along the plane that if each manufacturer -- well, he knows, or he should know or he should be able to substantiate with the government what the cost is to sell a refrigerator, for the sake of argument, and give the customer what he is entitled to. In other words the same should be applicable to an iron or a bowl of cereal, or whatever may be involved -- that the manufacturer must know, or he would not be as large an operator, what the cost of doing business in that field is for an efficient operator.

THE CHAIRMAN: It might be argued, of course, that the efficient operator himself is a better judge of that than the manufacturer would be, because he is actually doing it.

MR. THOMSON: That is right. I do not argue that point, either. But there is nobody at the present time who is, let us say, a judge. The minute we set a price on anything -- and as a matter of fact, somebody sets a price on

everything. The way this thing sets up now, it is the man with the large advertising budget who sets the price. Because, so far as our company is concerned, we reprice daily, if necessary, on anybody's ad in the newspaper.

THE CHAIRMAN: You advertise on the "nobody, but nobody" principle?

MR. THOMSON: Well, we do not advertise that way, but we act upon it. And when that price is broken, our tags are changed immediately on that particular price. But the point is that no manufacturer can govern what any of his dealers say about a product, because they are so scared of the federal government, or the action the federal government might take. It is either that, or they are kidding us; let us put it that way.

In other words, they use that as an excuse. And you have nobody who can control the type of advertising, or anything. The manufacturer is scared to death to make a move in that direction -- or at least, he claims he is scared. Frankly, I think a lot of it is that he is just hiding behind that excuse. Nevertheless, you have certainly given him a wonderful "out".

Some of the manufacturers are suffering badly by this drop in volume. They are down to probably half a dozen outlets in a city like Vancouver, where they should have many times that number. It boils down to the question of who should set that price -- whether it should be the

man who has the largest advertising budget, or the man who made it -- because somebody must set it.

THE CHAIRMAN: It seems to me there are some arguments against as well as for the manufacturer doing it. One is that the manufacturer -- and certainly this is true in many lines of merchandise -- would like to have the market pretty well saturated. In other words, he would like to have many outlets, just as many as he can find. Because of course that means a greater total sale of his product. That might result in requiring a somewhat higher markup because nobody sells as much as he might sell, if there were not so many people competing with him.

MR. THOMSON: Yes.

THE CHAIRMAN: And that might be regarded as not being advantageous to the public.

MR. THOMSON: I understand that, yes.

2) THE CHAIRMAN: So that you get the argument on both sides of that picture.

MR. THOMSON: I see that, sir. I think that is why the manufacturer should substantiate that price structure of his with a government commission. In other words, that is where the government should come in -- not in trying to make a law to make all of us operate under; because that is not feasible. But the other way, if he substantiates that to a group of intelligent men, then that should be within a reasonable

operation.

There must be some reasonable figure to the cost of doing business. We get D.B.S. figures and everything else, and we know where our costs are. We know they are lower than some and we know that they are higher than others, and so on. We are constantly fighting those costs. But there is some feature or some point at which cost is fair, and where all of us recognize that our competitor, or the people we are doing business with, have to make a profit. And the way it sits right now, it makes it very difficult.

THE CHAIRMAN: There might be one argument about that -- and I would like to have your views on it. Supposing you could arrive at a fair figure, with which you could satisfy a government board, what would happen where some retailer or some retail organization developed some new method or new procedure of handling goods, or some other way of increasing his efficiency in cutting his costs? How is that going to be made?

MR. THOMSON: I do not think any price should be a price which is not flexible enough. By that I mean, as the trend goes along your chain store, in so far as food is concerned, has developed out of the inefficiency of the corner grocer. They found out how to operate on a lower cost basis, and so on.

The same is applicable on anything. As

your changing condition comes along, and your manufacturer sees that you, as one competitor, can sell ten times as much, then that will become the setup for it. And if you cannot operate on that basis you will have to get out of business.

THE CHAIRMAN: Just looking at what has happened in the food business in the last thirty years, where I think everybody would agree that the retailer's average cost of doing business has come down perhaps to maybe half what it was -- perhaps less than half what it was -- thirty years ago, a somewhat similar tendency may be developing in certain other businesses, or certain other lines of industry.

MR. THOMSON: Yes, that is right.

THE CHAIRMAN: If you have a set markup based on what somebody regards as being fair -- perhaps a government board -- on evidence submitted by a manufacturer, I am wondering how that new method of handling goods, which might reduce the overhead of operation considerably, will be made effective in the face of a government-established markup. How is he going to use that, so that some of his saving would be passed on to the public -- which is in the public interest?

MR. THOMSON: I think your manufacturers will take care of that. Because what the manufacturer is interested in is the volume of dollars he can make out of it. And if somebody can

distribute his merchandise and give him larger volume, then that is all he is interested in. I think the competitive position between manufacturers would take care of that.

THE CHAIRMAN: Would you not have a similar position to that which you have as between the cut-price dealer now and the regular dealer, in that the manufacturer would be faced with an army of antagonistic dealers who would wish no reduction in the markup because they are not in a position to operate under a reduced markup.

MR. THOMSON: You could be right on that. But the problem still gets back to this, that if there were not legitimate dealers absorbing these selling costs, the other men would not be able to operate. And so when they say they are operating, for the sake of argument, at 12 or 15 per cent, in the appliance business, it is because somebody else is supplying the cost to them, that they are able to do it. It is not that they are able to; because if there were nobody else, they could not operate on that basis.

In other words, they are cashing in on somebody else's cost. It is all very well to say that that is fair -- and maybe it is. But nevertheless, without the other man's providing those costs and providing the public with knowledge of this thing, and selling the public on it, and creating that confidence, the other man could not

operate. He is only able to operate because somebody else has set the thing up for him. But he has not really reduced cost, he has borrowed somebody else's cost, or been subsidized by somebody else. He is a lot smarter than we are, possibly. I am not arguing that point. But nevertheless that is what it boils down to, do you not think?

THE CHAIRMAN: I think there is some element of that. In regard to some things he may be using the manufacturer ---

MR. THOMSON: Yes, that, too.

THE CHAIRMAN: Rather than the other retailer.

MR. THOMSON: Yes.

THE CHAIRMAN: The manufacturer's advertising and long-term reputation may be the more important factors in some instances in the retailer's ease of selling ---

MR. THOMSON: It is, yes.

THE CHAIRMAN: --- than is the displaying and servicing given by other retailers. Part of the picture is shown by what other retailers may do and part by the manufacturer. And from time to time, and article to article, it will vary a good deal as to which of these is the more important.

MR. THOMSON: Well, we notice quite a lot that on a new product, these boys, these so-called cut-pricers, do not get into this picture at all, they are not interested in it at all, until the

market has been developed. Take an article like a dishwasher, where it takes a long time to develop a market, and to get women conscious of what the dishwasher can do, that it will really do a job, and that it is not just somebody's dream. Well, these chaps will not be in on that business at all until such time as you have developed an acceptance for it.

You have really got to get out and work, and sell that thing, from the very beginning. We did that -- and perhaps I should not say that we did it -- but we were in it early, in the automatic washer field, seven or eight years ago. Now the price-cut boys come in, once you have developed the market and created a demand for the product. But until there is a demand, they are not interested.

The people do not know a thing about it. And these cut-rate boys will not spend money educating them with respect to that product, or anything else. So they are not interested in it. They wait until we do it, and my contention is that we are paying part of their cost that they supposedly save the public.

THE CHAIRMAN: I am sorry, but it seems that I have interrupted several times. Do you wish to make any more comment, Mr. Deachman, before we have the real period of questioning?

MR. THOMSON: I have nothing further to say.

THE CHAIRMAN: Very well, Mr. Gerin-Lajoie. You may proceed.

MR. GERIN-LAJOIE: Shall we proceed right now? I have quite a number of questions.

THE CHAIRMAN: We might take a brief recess now and have the questioning following that recess.

--- Recess.

--- Upon resuming.

MR. GERIN-LAJOIE: I have a few questions to ask, Mr. Deachman. You propose at the end of your brief some federal legislation to cover different phases of loss leadering, and other prob-
4 lems mentioned in the brief. You refer to the British Columbia Act, at the outset, and I should like to have a few more words from you on this subject. I am wondering if your association has considered the possibility of having this Act really operate, or if it has not been considered at all by your association.

MR. DEACHMAN: The association is moved by what its members ask it to do, and we try to act in a democratic way with a very large membership. It is not too hard to tell when there is a demand upon you to make something operative or not to make something operative.

Consequently, when no particular pressure is brought to bear to exercise an Act like that, or to implement its functions, well, it just is not done.

MR. GERIN-LAJOIE: My point is this, that you bring up some problems in your brief, and you are looking for remedies. You propose some. I am wondering if you have considered some other possible remedies on that. I am not expressing any opinion as to the practical value of the British Columbia Act -- the Commodity Minimum Loss Act -- but I am wondering if the possibility of having it operate has been explored or not.

MR. DEACHMAN: Not to my knowledge, no.

MR. WHITELEY: Perhaps we might go back a little to see whether the R.M.A. was active in urging the passage of the legislation, initially.

THE DEACHMAN: The R.M.A. was active in the passing of that, a number of years ago, and before my time. I am not too familiar with what took place there, or what was current at that time which brought about the passage of the Act. Undoubtedly there were a number of practices at the time which resulted in an attempt to bring about a piece of legislation which would prevent such practices at that time. But I think that is all history now.

MR. WHITELEY: I notice that certain amendments were made. Do you know whether the association was active again in pressing for those amendments?

MR. DEACHMAN: No, sir, I do not. It may be that someone else in this room would be

more familiar with it than I am.

MR. THOMSON: Perhaps someone from the food industry.

MR. DEACHMAN: Have we a representative of the food industry here this morning who could help us on this question?

MR. GERIN-LAJOIE: Do you say that the remedies proposed at the end of your brief were all suggested by members in answer to the questionnaire which was sent out, or were these recommendations designed in committee?

MR. DEACHMAN: The recommendations were largely designed in committee. And then the questionnaire was for the purpose of testing the opinion of the body of the membership of the association, to determine what support we would obtain for such recommendations.

In effect there were two main recommendations -- that something be done about loss leaders, and that something be done about resale price maintenance legislation, roughly.

On those two questions we did test opinion of the members by the questionnaire, and got a very large response, which you see from the result of the questionnaire and the letters appended to the brief.

Naturally the question as to the presentation of the brief and what was contained in it did have to be worked out in committee. That was something which could hardly be formulated out of the

questionnaire, and the letters received from the whole body of the association.

MR. GERIN-LAJOIE: But what I mean is this, were the opinions to the effect that something should be done about loss leadering or loss leaders or, more precisely, that certain changes in the legislation should be made along the lines mentioned in your brief -- were these suggestions made by the members? The Commission is asked to explore every possible solution to any problem which is brought before it, and you have proposed some. I am just trying to find out if these are the only solutions you have considered. Apparently they are.

Were these suggested by your membership at large, or just by the committee? And when I say "just by the committee", I am not implying that that is not a proper procedure; it may be quite sufficient. But I am wondering why you considered only these possibilities.

MR. DEACHMAN: Well, we make several recommendations. One is in connection with the tightening of regulations in connection with abusive advertising practices. Then, there is the recommendation that some sort of formula should be set up, particularly in connection with food retailing. There is the study, formulation or extension of the same formula to the wholesaler, consumer and discount selling, and the relaxation of the very tight regulations upon resale price

maintenance, all of which are fairly extensive recommendations.

Those recommendations, while we did have a committee which worked upon them and assisted in the preparation of the brief -- the association has people on the road who are in contact with the retailers daily, and the subject has been one for discussion for weeks, perhaps months, in fact every since the time of the MacQuarrie committee.

So that we cannot say that we are in thorough contact with the whole body of the association on the question; I do not think there is any question about that. But, so far as the democratic setup of the brief, in terms of our own membership is concerned, I would say that it is most democratic, and that it is not the work of a committee working by itself, at all.

MR. GERIN-LAJOIE: I was not questioning that. It is just what had been considered and by whom.

THE CHAIRMAN: I think what Mr. Gerin-Lajoie is asking amounts to this, that in your questionnaire the question is simply asked, in very general terms: are you in favour of legislation restricting loss leader selling? This question does not specify any particular method of dealing with it. Then your proposal is a specific one of attempting to deal with it.

What Mr. Gerin-Lajoie was trying to get at, I think, is whether your members had

discussed and considered a particular method, along with other methods and decided in favour of that one, or whether, following the reply to the general question with respect to loss leadering, the committee had worked out this proposal for dealing with it. I think that is what he was trying to get at.

MR. DEACHMAN: Well, the questionnaire was couched in that form in order to get a response to a very simple question in the brief. Our feeling was that you can always go about getting almost any kind of response you want to get by putting an argument before your members. If the argument is well put, all right, all right -- you get a large response.

Our feeling was that if we put a straight question, if we did not attempt to colour it, or if we did not attempt to add in the same envelope in which we sent out the questionnaire a whole lot of arguments in order to induce a big response, we would get a pretty fair test of the enthusiasm or the lack of enthusiasm of our members.

That is what we were seeking. And it is for that reason that we leaned over backwards in our attempt not to colour the questionnaire in presenting it to our members. It is for that reason that we put considerable stress upon the questionnaire as having been a pretty fair thing in assessing the temperature, let us say, of our

members -- which is what it was intended to do -- rather than necessarily to bring out any point in regard to it.

The questions, the recommendations and so on, had all been brought out long since in lengthy discussions in several cities, with particular retailers there, and in general committee work.

MR. GERIN-LAJOIE: Looking at page 4 of your brief, I should like to know whether you refer in the first paragraph only to articles being sold at less than the cost price, or the ordinary prevailing retailing price, or also to premiums. You say that merchants choose as loss leaders items which they do not normally stock.

MR. DEACHMAN: We refer there also to premiums, Mr. Gerin-Lajoie. I believe I have in my papers here a reference that would clear that up very quickly. On looking through these papers I find that I do not have this particular one with me. In any event, one particularly glaring example would be where a jeweler uses silk stockings as a
146 premium in connection with the sale of jewelry. It is certainly not the intention of the jeweler to get into the ladies' wear business, and to sell silk stockings. I do not think it was the intention of the manufacturer of silk stockings that the stockings should be used for the promotion of jewelry items. The manufacturer of silk stockings surely was interested in the selling of silk stockings to build up a custom and trade

in those stockings. And he expected that the stockings would be sold by people who sold them regularly through normal channels. By that we do not necessarily say that it must be women's wear outlets, but wherever they want to sell stockings and trade in them regularly.

THE CHAIRMAN: Such as drugstores?

MR. DEACHMAN: Yes, like drugstores. I do not think anyone can take exception to the fact of having an item which is turned over quickly, and which people want quickly -- whenever they get a run in them -- and putting them in drugstores or supermarkets or tobacco stores -- or wherever it may be. The point is that the manufacturer wants to build up a regular custom, a regular outlet, regardless of what the outlet may be.

MR. GERIN-LAJOIE: Have you any evidence that that practice is prevailing now, or that it is just a very occasional practice?

MR. DEACHMAN: I think you could find it in newspapers in Canadian cities at any time in any day, in one form or another.

THE CHAIRMAN: In any branch of business.

MR. DEACHMAN: Yes, in any branch of business, seizing upon a line which is not normally stocked and virtually giving it away or selling it at cost or near cost as a combination, along with some other article.

Of course there are limitations to that.

We have to be cautious. There are limitations as to how far you can go. If a grocer, for instance, is selling an angel food cake mix, he cannot sell that angel food cake mix to a woman who does not have a cake tin. And a cake tin is a hardware man's item. At the same time the grocer cannot afford to wait for the hardware man to get himself stocked up with tins. As a consequence I think in moving the cake mix it is that retailer's legitimate right to sell an associated item which will move his product.

MR. GERIN-LAJOIE: But is there really a very definite distinction between a certain type of store and another type of store in these days? You are talking about the food business. Is it not considered that a number of food stores now sell quite a number of, let us say, ha rdware articles or hardware items which up to this time have been sold in hardware stores?

MR. DEACHMAN: Yes. The ancient conception of trade classifications and of strictly defined trade classification, is breaking down. Merchandise tends to be sold in the way in which it is sold most readily, that is to say some goods turn out readily and are easily prepackaged. They tend to be sold together, because they lend themselves to a certain type of retailing. It is perhaps an advance in sales practices.

I do not believe any association should stand in the way of such developments. It may be hard on one retailer to see an item which he has stocked for many years, and in which he has believed he had some proprietary right, move up and become established in another form. However, I believe that is part of the pain of retailing -- is that not so, Mr. Thomson?

MR. THOMSON: That is so, yes.

MR. GERIN-LAJOIE: I am wondering what you mean at pages 3 and 4 of the brief when you refer to loss leader articles which are sold by merchants in that way -- let us say by food stores which sell hardware articles.

MR. DEACHMAN: He intends to take those hardware items and sell them regularly. He is dealing in something which he intends to stock and to turn over quickly and to keep on his shelves.

MR. GERIN-LAJOIE: So you would not have any objection to that? You do not object to that practice?

MR. DEACHMAN: He is selling those things
at a profit. He expects to make part of his liv-
7 ing out of selling those items today and tomorrow.
He is a quite different bird from someone who
seizes upon a stocking to sell cutlery, and who
expects to sell that stocking at cost or near
cost as an inducement to have customers buy his
cutlery.

MR. GERIN-LAJOIE: I have been asking these questions because in some other cities the Commission has been told that some people consider it as loss leadering -- perhaps the selling of cigarettes -- in a food store at one cent or two cents or three cents less than they are sold in the tobacco stores. So I am wondering if that is the kind of practice that is considered by your group as being a bad practice, from the point of view of the economy of the country, or if that is covered by the general developments which are taking place in our economy and which are considered to be quite normal.

MR. DEACHMAN: Now, the economy of the country certainly does not suffer from methods of retailing which enable retailers to take a product which formerly may have been sold in a store which dealt in virtually nothing but that line of product, and found a new and improved method of selling it which brings it to the consumer cheaper and brings it to the consumer at a price in which he may make a profit and a living.

No one could possibly take exception to that. And that is a quite different thing from taking a product and loss leadering it, a product on which he does not make a living. He merely takes that product in order to attract traffic to his store. Then I say/if that is what he does, then other stores must gradually abandon

that line and it will be concentrated in the hands of the man who advertises it as a price cutting item.

THE CHAIRMAN: You mean if it is done on a big enough scale?

MR. DEACHMAN: Yes, if it is done on a big enough scale, eventually the product will become concentrated in the hands of the price cutter, and of the man who extensively advertises that he constantly cuts the price on that particular item.

THE CHAIRMAN: And they will become the regular dealers in it?

MR. DEACHMAN: Yes, they will become the regular dealers in it; and the other outlets will have to get out of it and leave it. If that happens, when it does become concentrated in his hands, and if he has not taken a profit on it, then in concentrating in his hands he must eventually then either abandon the line or increase his profit, because it is of no further use to him, once he has concentrated the outlet in his hands.

MR. WHITELEY: But that is a different thing from the giving of premiums?

MR. DEACHMAN: Yes, that is different from the giving of premiums. We are now talking about straight loss leadering.

MR. WHITELEY: The matter of premiums has been in existence, I suppose, since merchandising has existed. There is nothing new in it,

is there?

MR. DEACHMAN: No, there is nothing new in premiums.

THE CHAIRMAN: And I assume that retailing, as such, has developed with premiums being used more or less as a customary feature of trade. For example, in the old days, the youngster used to get a lollypop when he brought an order from the grocery store. That, in a sense, was a premium, in that it attracted a certain amount of custom.

I assume the only significance that can be attached to the giving of premiums is that, in the opinion of some retailers, they now assume a larger part of the trade.

MR. DEACHMAN: Well, the grocer dealt in lollypops, did he not? He could either sell them to you, at retail, at which time he would make a legitimate profit, or he could give them away, gratis.

THE CHAIRMAN: If he gave them away it would be loss leadering, perhaps.

MR. DEACHMAN: If he made it a business to advertise in that way, I suppose it would be loss leadering of a kind.

THE CHAIRMAN: I do not think that anybody ever bothered to call it that.

MR. DEACHMAN: No, nobody worried about it, particularly. It was just part of the good will, I guess.

MR. WHITELEY: The point I am making is
8) that it must be regarded that the use of premiums is now assuming a larger part in merchandising, generally -- because it has always existed. It is not a new problem that has been introduced at this time.

MR. DEACHMAN: Except for its size.

MR. WHITELEY: You now regard it as something more significant than it has been in the past.

THE CHAIRMAN: Do you regard it as a problem that is somewhat different from what it was formerly because of the difference in the way in which it is used? It seems to me that, when they first came in, premiums were quite small in value as compared with the amount of the goods that had to be purchased in order to get them.

For instance, you might have to buy quite a large amount of goods, in total, at one time and another, and gradually accumulate a number of coupons which would enable you to come and get a premium free of charge. That is one situation.

But what we see today, in some instances, is where you buy one package for 25 cents, and you add a dollar and you are given such and such an article at considerably less than its normal price. It is not exactly a premium; but it is advertised very much as though it was.

That is a rather different thing, it seems to me. You buy a small article and add a

substantial amount of money and get something that is worth supposedly two or three times what you are paying for it. That is quite different from the earlier type. Is it your view that that development in the use of premiums, or quasi-premiums, has created a quite different picture from the situation which existed in days when people did not make much complaint about premiums?

MR. DEACHMAN: I think it has, yes. I think it has increased in size and in its use to a point where it makes definite inroads into the business of other retailers who regularly stock those items as part of their regular business. And I think that is particularly so where a product is taken which has a brand name and which a retailer has developed as part of his regular custom and trade, and where that brand name is taken and offered as a premium in conjunction with other merchandise for the purpose of trading on that brand name.

I do not think the manufacturer, or the retailer whose outlets were developed by that manufacturer, intended that those articles should be used -- appliances and so on -- for the selling of sheets or pillow-cases, and so on. I think they intended to develop a legitimate trade of their own, through legitimate outlets.

MR. WHITELEY: Do you not think, though, that in the case of many of these premiums and

items of that kind, that the goods are acquired, which would not be acquired normally under direct retail sales, at all?

MR. DEACHMAN: Well, I would want to be assured of that through some figures I do not know. I cannot see why those goods could not be sold through legitimate advertising methods and promotion, or that theyneed to be coupled with other goods in order to make them move. I think the retailers of this country, the independent retailers, have done a splendid job of building brand names that are sold by the hundreds in this country, and they have done it by legitimate advertising and promotions in conjunction with the manufacturers who are anxious to establish those retail outlets to move their products. It is the result of a standard of living which no one else in this world can equal.

THE CHAIRMAN: Now you have the manufacturers joining in the premium business on a big scale, have you not?

MR. DEACHMAN: Yes, they are beginning to join in it, too.

MR. THOMSON: The point is as to how much is the price of the article supposedly being sold being inflated to take care of the premium. In our business they have been giving away mixers and floor polishers and God knows what. But the price of the article they have been selling to the consumer has been at an inflated value. A

lot of thinking people see that. But it is surprising to see how many people fall into the category of a "sucker born every minute". The woman goes home and says that she bought it that way, because her husband has told her that she could not buy a polisher. That way she got her polisher, but of course she paid for both of them, anyway.

THE CHAIRMAN: Who is the sucker there? Her husband said that she could not have it, but she got it that way.

MR. THOMSON: She got it, but the other article is padded in order that she may get it. Quite obviously it is padded.

THE CHAIRMAN: You would think in connection with a major article, which is sold in conjunction with a loss leader article which apparently is given away, that if the price of the major article is raised before long that fact would be discovered by the consuming public, and they would have to decide whether they wished to get the two of them sufficiently to pay that price, or that they would rather buy the major article separately.

MR. THOMSON: Actually, one of the department stores here has a combination offer in which each item is advertised at a separate price in the newspaper. You do not have to buy the combination offer. In that way you know exactly where you stand. But these other

people are misleading the customer into believing what they are getting is free which, of course, it is not. It is not a package deal which is supposedly free. Again it gets back to your consideration of false and misleading advertising.

MR. WHITELEY: Did you not have instances of such premium offers prior to the time when the ban on resale price maintenance was imposed?

MR. THOMSON: There could have been. I cannot remember without referring to the advertising of that time. But it has been much more prevalent recently.

MR. WHITELEY: In that case, if you had a suggested price, if it did exist at that time, your suggestion of padding would not occur in so far as being in excess of the suggested price is concerned?

MR. THOMSON: That is right. They could not do that then, although many of them will use an item -- well, for instance, a new model will come out and they will use the previous model which they will buy from the manufacturer at a special price. They will use the old list price on it. There are so many ways of getting around it -- that is, if you do not mind doing a slight amount of misleading in your advertising. A good deal of the problem is concentrated in the ethics of the operator concerned. And no law can control that, it would seem.

THE CHAIRMAN: You mean that no law has controlled it, anyway.

MR. THOMSON: You are quite right there, sir, yes.

MR. GERIN-LAJOIE: Mr. Deachman, I wonder if your association could submit to the Commission some evidence of the loss leadering you refer to at the top of page 4 in your brief. What I have in mind is this: the Commission has been told in other cities that there has been a type of loss leadering in, we will say, the selling of cigarettes in food stores and the selling of so-called hardware articles in food stores. Apparently that is not what you have especially in mind, so long as the food store, for instance, starts dealing more or less normally in that type of business. So I wonder if you would have some advertising -- perhaps not now but later -- and if you could supply the Commission within some reasonable time with evidence of that type of loss leadering. Because, so far as my recollection is concerned, I do not think we have that.

MR. DEACHMAN: You are referring to that which we define here as the use of an item of a purely predatory nature for the promotion of something else, outside the item itself?

MR. GERIN-LAJOIE: Yes, and using an article which is not normally sold in that store.

MR. DEACHMAN: Yes -- not normally sold in that store. We will do that gladly, surely.

MR. GERIN-LAJOIE: Regarding the method of advertising, referring to page 6 of your brief, I see that you mention the words or phrases "free", "No down payment", "Make your own terms" -- and so on. Is it the opinion of your association that all these phrases are misleading, and that they should not be used at all?

MR. DEACHMAN: What we claim is that for the most part the use of these phrases is deceptive in that what they offer to do must be contained in the selling price of the item. For instance, there is a reference to 60 per cent off. I have deliberately made no reference to what that was 60 per cent off of, or to what article it applied, or the company that did it.

But here is an item that is said to be 60 per cent off. What can you sell at 60 per cent off? Can you think of anything that could be sold at 60 per cent off? Off of what?

MR. GERIN-LAJOIE: Well, let me put it this way; suppose it was a last year's model, or a model of a previous year, which could be sold at 60 per cent off.

MR. THOMSON: It is possible that it could be sold at 60 per cent off; but I think what Mr. Deachman is getting at is that there should be something more specific than that. In other words, it is 60 per cent off what? And

mostly these things are very misleading. They will say "Up to 60 per cent off" -- and then there may be one item in that place which was, as you say, an old model, in that category; and everything else may just be a fraction of that.

THE CHAIRMAN: That particular type of thing has been known for many years, has it not?

MR. THOMSON: That is right, it has.

THE CHAIRMAN: Reductions up to 50 per cent or up to 60 per cent -- I have seen that sort of advertising since I was a child.

MR. THOMSON: It has always been with us, yes -- that type of thing. Another thing is the creation of a supposedly regular price -- quoting a regular price which is not a regular price. On this type of thing, deceptive advertising -- there is at the present time a General Electric steam iron, for the sake of argument, being quoted at $24.95, and they say, "Save $6" -- and such and such a place -- and buy at $18.95. How can you save $6 when the regular price is $21, not $24.95? The regular price of the G. E. iron, on the G. E. list is $21. The other price was when it had the excise tax on it, which came off on April 8.

MR. FAVREAU: The old list?

MR. THOMSON: Yes, the old list, at $24.95, which included the excise tax.

THE CHAIRMAN: We had instances of

that, where they used last year's list price, even before the first excise reduction.

MR. THOMSON: Yes, they have been doing that also. And they are allowed to advertise, "Save $6".

THE CHAIRMAN: Well, that would be false and misleading advertising.

MR. THOMSON: A tremendous amount of this whole thing is false and misleading advertising.

THE CHAIRMAN: But some of these terms used here are not necessarily misleading, it seems to me. For instance, "No down payment" -- that is not necessarily misleading, if it is true.

MR. THOMSON: "If it is true"; that is the point. But many of them will say, "Your trade-in covers your down payment". When you get in there you have nothing to trade in and they will say, "Gee, I am sorry, you do not qualify." Well, that is not true.

THE CHAIRMAN: Then the statement is not true.

MR. THOMSON: That is right.

THE CHAIRMAN: But the mere fact that they say, "No down payment", does not necessarily mean ---

MR. DEACHMAN: Also if you happened to be one of those rare persons who has a perfect credit rating, then of course they would give it to you on the basis of no down payment. But no store sells anything on time unless, first of

all, it can secure some kind of equity in the merchandise. And the higher the equity they can secure -- the higher the equity the person can secure in the merchandise, the easier it is to collect subsequent payments.

THE CHAIRMAN: I can see how it could be misleading.

MR. DEACHMAN: Unless the integrity of the person is such, and his financial position is such that the equity in it is a matter of no interest to the person at all -- and that is a rare person.

THE CHAIRMAN: Otherwise they might say, "No down payment, but we want a chattel mortgage on your automobile."

MR. THOMSON: And also they collect 5 per cent provincial sales tax. They say that is not part of the price, of course, but you have to pay it. Anybody else selling on a down payment of 10 per cent, for the sake of argument -- well, 5 per cent is provincial tax anyway. So there are all kinds of strings attached to it.

THE CHAIRMAN: The statement "no interest" is not necessarily misleading. I have run across cases in the past where a merchant has said to me, "The price is so much; you can pay for it in two years". I will say, "What is the price if I pay cash, now?" He will say, "It is just the same." I am not buying, because I buy for cash. And if I pay cash I am paying part of

the cost of the man who got two years credit.

MR. DEACHMAN: You are absorbing part of the interest. The question of using the expression "no interest" we say is misleading. You apparently would not become a party to absorbing interest charges for somebody else.

THE CHAIRMAN: But he can do it by having the same price. If his price for cash is the same as his term price, then, so far as the person buying it is concerned, there is no interest charge -- if he is buying on time.

MR. THOMSON: It is not false advertising.

THE CHAIRMAN: It is possible that the dealer might really make a cut in his term payment price by absorbing the finance charges himself. It is not necessarily misleading.

MR. DEACHMAN: Not necessarily, no.

THE CHAIRMAN: Sometimes they do that sort of thing. Then, $60 for your old ice box -- that is the same sort of thing. You mean $60, regardless of what condition it is in?

MR. DEACHMAN: It is a premium.

THE CHAIRMAN: A cut in price.

MR. DEACHMAN: Yes -- inflated value for junk.

THE CHAIRMAN: What is wrong with the last one -- $11.95 with all attachments -- is that not sometimes true?

MR. DEACHMAN: That applies to the vacuum

cleaner offer which is prevalent in practically every city of Canada and the United States, and about which the Better Business Bureaus have done an immense amount of work. There was an article which appeared in the Reader's Digest dealing with it. It is well known -- a well-known selling practice. That is the story of $11.95 with all attachments.

MR. FAVREAU: Strings attached.

THE CHAIRMAN: You say that the attachments are not all supplied, is that it?

MR. DEACHMAN: That is the one which -- well, they do not sell it to you, at all. That is the one which brings you into the store. And after that they proceed from there to show you what a miserable thing it would be if you bought this one, and that you would be well advised to get into something else.

That is one where, in one city, the Better Business Bureau noted that salesmen had a pool or a pot into which they threw money if they were forced into a position where they had to sell this one.

THE CHAIRMAN: But the mere fact that they quote a price with attachments ---

MR. DEACHMAN: That is what this makes reference to, that specific type of trading.

MR. GERIN-LAJOIE: Do we understand from your brief that your organization is opposed not only to false advertising but also to any

advertising which may have some deceptive effect on the customer?

MR. DEACHMAN: Let me put it this way, that we are interested in encouraging the members of the association to live within the spirit of retail ethics, rather than the letter of it. Anything the association could do to move the retailer toward the most open and frank attitude towards his public we would believe would be in the interests not only of the consumer but of the retailer himself.

MR. GERIN-LAJOIE: And that brings us to the question raised at the bottom of page 8. Should the government intervene as a referee between the consumer and the retailer. That may be the real point. Is it the belief of your organization that the government should intervene in such manner?

MR. DEACHMAN: Well, sir, Addison said that statesmen can do much for commerce -- and most of all by leaving it alone.

THE CHAIRMAN: Is that the belief of your organization?

MR. DEACHMAN: I think we are inclined in that direction, sir, if I may say so.

MR. THOMSON: Well, for several years I was on the board of directors of the Better Business Bureau, and I know that they spent some time trying to straighten out one advertiser in

this city for this false and misleading advertising. Finally he told them to get out of his store and stay out, that he was running his business, and that they were not running it.

I do not know at what point -- but nevertheless, it does not seem right to me that somebody should be able to spend thousands of dollars in the newspapers in misleading the public. I do not think that is right. But as to whose job it is to correct it -- I will leave that to you gentlemen. But I still do not think it is right. I think an ad in a newspaper should be the truth.

MR. FAVREAU: If it is found to be untrue, then some papers just do not take the advertising. We have been told that in some cities.

MR. THOMSON: Yes, but the argument of the newspapers is that they do not know what is correct about these things. We complained about these pre-excise tax prices to which I have referred, and the newspapers claimed that they would get the prices from the manufacturers to see whether we were correct. Well, two months have gone by, and nothing has been done about it. In other words, what do you do to have the thing corrected? It seems to me that today there is quite a premium on dishonesty, and that there should not be.

THE CHAIRMAN: I think perhaps it is going a little far to expect a newspaper to maintain a

rigid policing activity with respect to the truth of prices in the advertising submitted to it. Newspapers, as a rule, will desire very strongly that the statements made in the advertising, so far as prices are concerned, are true. But it is pretty difficult for a newspaper to check prices quoted in connection with all the ads that come in. It would be a counsel of perfection to expect them to do it, I should think.

We have had instances of some newspapers that occasionally have sent a man around to check as to what is going on on certain business premises. But it is more with regard to seeing whether they have the article for sale that is being advertised than it is of checking actual prices the retailer is quoting.

MR. THOMSON: They normally will protect their subscriber. If a subscriber kicks to them, then they will investigate to find out whether or not an article is as advertised. But, if no subscriber complains, they will usually leave the thing alone.

MR. DEACHMAN: Apparently some publications will go to considerable lengths to protect the public from bad advertising practices. I have a letter here from the vice-president of Good Housekeeing magazine which states the following:

What might be called the Good

Housekeeping points of ethics in the acceptance of advertising are basically very simple. They are simply that: (1) Good Housekeeping must be able to satisfy itself that the merchandise featured in the advertising is good; (2) that the advertising copy be in what is generally accepted as good taste, and (3) that the statements on labels, packages and in the advertisement be substantiated.

Those things, of course, could mean very little if Good Housekeeping did not have personnel and facilities competent and adequate to determine the basic facts. Actually Good Housekeeping uses its editorial laboratories for this work. The laboratories are staffed with those who hold graduate and post-graduate degrees from leading colleges and universities. We number among our staff engineers, both mechanical and electrical, chemists, bio-chemists, and numerous home economists.

In addition Good Housekeeping retains several outside consultants who are recognized authorities in special fields of activity.

That seems like a lot of work to go to, does it not, to protect the consumer against bad

advertising practices. Yet, they do it. No one can say that every newspaper could go to that expense, because they have not the money or the facilities to do it.

THE CHAIRMAN: And they publish every day, too.

MR. DEACHMAN: Yes, they publish every day, too. But still it does show that publications can go to considerable lengths.

THE CHAIRMAN: And sometimes they do.

MR. DEACHMAN: Yes, sometimes they do.

THE CHAIRMAN: I think some newspapers are very careful.

MR. DEACHMAN: I believe so, yes. Our contacts with newspapers in this city gives us plenty of evidence to that effect, that they are well aware of these practices, and that they do quite a bit to stop them.

MR. GERIN-LAJOIE: Mr. Deachman, at page 18 of your brief you use the word "chaos" when you are referring to the retail trade. Would you explain a little bit more what you mean by "chaos"?

MR. DEACHMAN: Yes. I would like to turn back here for a moment.

MR. FAVREAU: What page are you referring to?

MR. DEACHMAN: May I refer back to page 12 where you will find a table illustrating how the British Columbia retailers share in retail sales during 1953, and the percentage of change

from the previous year.

The most interesting thing about it was that motorcars and gasoline and service stations took immense jumps in that year to the extent of 5.7 per cent and 8.8 per cent. As they did 25 per cent of the whole of retail business, and as retail business in 1953 increased by 2.5 per cent over 1952, it must have come from some other dealers. And, at a glance, you can see that the people who suffered were the appliance and radio dealers, whose business was off to the extent of 9.6 per cent.

It is hardly fair to put fuel in, because that varies according to the mildness or toughness of the winter. Men's clothing in particular was up by 5.2 per cent.

Now, the reason for the decline, the reason for that rapid shift back and forth, and the equally violent shifts in the current year, was due to the restrictions which had been placed upon credit, in the automotive field, and which was removed. People promptly got into a buying spree on automobiles, with a consequent consumption of gasoline. It had to come from somewhere, and so the radio and appliance dealers suffered.

What we argue is that if these restrictions were not constantly being put on retailers, and removed from retailers, things would tend to level themselves out a little more -- except,

that is, for the normal changes with regard to economic conditions. And the retailer would lead a somewhat smoother life.

MR. GERIN-LAJOIE: Do you mean that the credit conditions imposed by the government were partly responsible for this situation?

MR. DEACHMAN: They could not have been anything else, because as soon as they were released there was an immense boom in the automotive trades. Is that not so, Mr. Thomson?

MR. THOMSON: Yes.

MR. GERIN-LAJOIE: But is it not true that those restrictions were put on because of a particular situation, particularly the Korean war? So far as I know, that was only a temporary measure.

MR. DEACHMAN: Yes, it was a temporary measure. I am not so sure that it was put on because of the Korean war; but it was put on at that time because there was an attempt to curb what I believe the government thought was too rapid expansion in the field of credit.

Actually at that time Canadians were putting away 6 per cent in their savings accounts, which did not seem to an awful lot of people to indicate overexpansion of credit buying, -- when they were capable of putting away 6 per cent of their savings.

MR. GERIN-LAJOIE: Now that these credit restriction measures have been removed, do you

still believe that the present situation regarding the abolition of price maintenance is a hardship on the trade, and would explain part of this situation?

MR. DEACHMAN: Yes, the abolition of price maintenance would again cause some of the picture here, that took place about this time, because the practice of loss leadering promptly followed upon that. And, as you see, in the appliances and radio dealers, where business is off by 9.6 per cent, on the traffic appliances -- those traffic appliances suffered most from the loss leadering practices. Part of that loss would be reflected right in there. But perhaps Mr. Thomson could answer that better than I can.

THE CHAIRMAN: The change took place in 1951, did it not -- the change in the law?

MR. THOMSON: On price maintenance?

THE CHAIRMAN: Yes.

MR. THOMSON: Yes, 1951.

THE CHAIRMAN: It was in both of those years. It might have been in the second a little more than the first; but it was in operation during the whole of both of those years.

MR. THOMSON: Yes. Referring to this, and saying that the business was down $9\frac{1}{2}$ per cent -- may I say that, fortunately, we were not down $9\frac{1}{2}$ per cent. In fact, we were not down any. Nonetheless, the thing stems back a long way. The

whole thing got started, as many do -- of course, we blame everything on the government, anyway. But interference with normal trade practices create problems which, when they are taken off, create other problems. That is what happens.

The putting on of credit restrictions allowed conditions to develop which brought, let us say, price maintenance to a great extent before government bodies with the feeling, in my opinion, that there was too much profit. And I think this will explain it.

They put these credit restrictions on us, as well as on the automotive business, and the only thing is that in this business there was room for a little fandangling, if you wish to put it that way. These restrictions were 25 per cent or 33 1/3 per cent down. The manufacturers, some of whom were not too ethical either, established so-called very high list prices. They might establish a price on a refrigerator of $500, where it should be about $350. Then the dealer would advertise $150 for a cup and saucer.

Now, the only reason he did that -- as a matter of fact, I have ads of my own to prove it at the time -- was to get around the government credit restrictions. They allowed $150 for this article here because that got past the credit restrictions. It was the third down, or the 25 per cent down, or whatever the law was at that time.

Now, it became quite evident that there was either far too much profit in the appliances business, or that there was something cock-eyed about the whole thing. The contention seemed to be from some of the public that there was far too much profit, when anybody could give $150 for a cup and saucer. And, had that been so, there is no question that I would have agreed with them. But it was done specifically to beat the government's terms.

Then, once this thing operated on that basis for some time, then inquiry got us to the profit in it. And on that basis there was far too much. So the Commission decides, "We will get these prices out of here" -- because otherwise they would not have $150 to throw away. In other words you have to go back to see what condition was created by controls.

And then, once that happened it caused the other thing to happen. In other words, this series of controls that set the thing up -- I don't think, frankly, we would have had the removal of price controls had the other condition not existed. I think the one bred the other. However, that is just the way it looks on the surface.

THE CHAIRMAN: It could also be argued that very high markups encourage the price cutter.

MR. THOMSON: Yes, they encourage the price cutter. But we had manufacturers come in,

before a model was announced, and suggest that the price be a certain price, so that we could give $100 away with an old radio or television set, for the sake of argument. They wanted the price set up so that it would look more attractive to the customer when it was cut.

The whole thing is utterly ridiculous. To set a price up and to do that even before the model is announced -- however, there are certain manufacturers who will go to that length.

THE CHAIRMAN: The misleading is not only by certain retailers, then?

MR. THOMSON: No, it could be by some manufacturers, as well.

MR. WHITELEY: Do you suggest that following the imposition of credit controls there is a general widening of margin under the manufacturers' suggested resale price?

MR. THOMSON: Let us not say that the better class of manufacturer did that. But there are a lot of smaller manufacturers in Canada who are always fighting to get a share of the market. And they immediately found that there was a way of getting a share of the market at that particular time, and that was it.

So their price structure was so set to allow that condition to exist. The minute that happened, the manufacturer who, let us say, is not in that category, must do one of two things -- either he has to increase the profit on his

article, so that it can fight back, you might say, or he drops that particular model, cleans it out, and introduces another model with a longer margin on it, so that he can do it -- which amounts to the same thing. In other words, no manufacturer will sit back and watch somebody else steal his business, even if it is by semi-illegitimate means. He has to fight back, somehow.

MR. WHITELEY: I am interested in it, as a matter of fact; is it your opinion that was the situation during the period of credit controls -- that margins did lengthen?

MR. THOMSON: On all those items that were sold that way, they certainly did, because those profits were not there before. Those items were priced to do that with. They were not priced previously to do that with. Because that condition had not existed before; it started at the time of credit control.

THE CHAIRMAN: Did you observe substantial increases in prices at that time?

MR. THOMSON: Well, most of that particular type of merchandise is what I would class as off-brand merchandise. By that I mean it is not nationally advertised merchandise such as, for instance, G. E. or Westinghouse. It would be off-brand merchandise, which you or I would not recognize by name, if we went into the store. Then, one or two name brand manufacturers would

follow it.

THE CHAIRMAN: People like you, who are in the business, would have some knowledge of the prevailing price, even of the off-brand?

MR. THOMSON: Yes.

THE CHAIRMAN: At the time the controls came in -- we were trying to find out whether you observed any substantial increase in the retail prices.

MR. THOMSON: Yes, of the off-brands. There was a marked increase in the off-brand prices, that is right.

THE CHAIRMAN: Sufficiently so that you could regard it as a reaction to the control?

MR. THOMSON: Very definitely, yes.

MR. DEACHMAN: I might point out, Mr. Chairman and gentlemen, that Mr. Alex Forst, a member of the board of the B. C. Merchants Association is here and, if it is your wish we would like him to join us at this table to take part in the discussion.

THE CHAIRMAN: If it is your wish you may do that. What is your position, Mr. Forst?

MR. FORST: I am Vice-President of Forst Limited.

THE CHAIRMAN: Are you an official of the association?

MR. FORST: I am a merchant.

THE CHAIRMAN: But you are a member of the association?

MR. DEACHMAN: Yes, he is a member of the board, of the B. C. Board of the Retail Merchants Association.

MR. FORST: The question was asked here a moment ago, of Mr. Thomson, as to whether list prices were increased, due to credit controls. List prices were increased in some instances, but the dealer in very few cases got the additional profit. He gave the profit back to the consumer in the form of trade-ins. I do not know whether that was made clear or not.

THE CHAIRMAN: I think that is exactly what Mr. Thomson was saying.

MR. WHITELEY: But the point I was interested in was whether these trade-in offers were consigned to the items on which the margin had been lengthened.

MR. FORST: Yes, that is right. In other words, they allow the $150 for a broomstick, or anything at all -- a cup and saucer, if you wish -- but it was only another way of getting around the government regulations. Very few merchants got the additional profit. That is the point we wish to make. They did not get the additional profit. They gave that profit away in the form of additional allowances, to get around the credit restrictions.

MR. WHITELEY: But the point I was interested in was this, what did you do in the case of those articles on which the discount was not

lengthened?

MR. FORST: They did not give high trade-in allowances.

MR. FAVREAU: Did not some merchants give trade-in allowances?

MR. FORST: No. In the main, those trade-in allowances were given on imported items, where there was no list price anyway, and where a distributor and a retailer got together and set a list price to take care of the big trade-in allowance. And where a legitimate profit, or a normal profit, was being made, although some trade-in allowance would be given, yes, but not to the extent of these ridiculous amounts such as $150 or $100. Because that was in most cases considerably more than the gross profit -- and nobody is going to do that.

Also that might have happened in some of the cases that were mentioned earlier, where additional trade-in allowances were given -- and it was due to the fact that older models, previous years' models and so on were used. In other words, the merchant had that additional profit to give
57 away, and he gave it away in almost every case.

MR. FAVREAU: So that they were not in reality actual or real allowances.

MR. FORST: No, they were not actual allowances at all; they were fictitious.

THE CHAIRMAN: Ethics were not on too high a plane.

MR. FORST: No; and not all dealers, incidentally, or not all merchants, took part in that kind of promotion, either.

MR. GERIN-LAJOIE: Mr. Deachman, I understand the situation shown by the table on page 12 is explained by your organization as a result of (1) the abolition of credit controls and (2) the abolition of resale price maintenance?

MR. DEACHMAN: They were contributing factors. There may have been other factors involved, but undoubtedly, they were the major contributing factors.

MR. GERIN-LAJOIE: Taking that for granted, for the time being, do you not think that now that these changes have taken place two or three years ago, that this situation might settle down, without any further remedy by way of legislation?

MR. DEACHMAN: I am not too sure I would go that far with you, sir. We do not know what is around the corner. Something else might come up in the way of legislation, to upset the cart again.

MR. GERIN-LAJOIE: But if we were not to have any other legislation of that type, would you conceive it as possible that, without any legislation of the type suggested in your brief, the situation might settle down?

MR. DEACHMAN: Those factors in it would settle down, which have been caused by legislation.

It would still be subject to economic change.

MR. GERIN-LAJOIE: But do you think that there should be legislation to control the results of such economic change?

MR. DEACHMAN: No, I believe that by getting out of the field of legislation which causes these impacts upon the retailer, that then the retailer would only have to contend with economic change, and not with change in legislation, plus economic change.

MR. GERIN-LAJOIE: The Commission has heard complaints about the legislation regarding the abolition of resale price maintenance, and apparently you have had some complaints also -- although you do not propose a return to the previous situation.

But I wonder if the changes you explain here, and the so-called chaos, is not just the result of changes which are being obtained in the general economy of the country? You have placed before us for instance the position of the independent retailer. And you have referred in particular to the appliances business.

Well, is it not possible -- and this is just a question; I am not expressing an opinion -- is it not possible that if we were to have a lesser number of appliance dealers, that each retailer would have a bigger turnover, and possibly could take a lower profit per unit; and that, in the long run, that would profit the public generally?

Is that not possible? Of course there would be so-called chaos for a time, because there would be some people going out of business, possibly, and there would be bankruptcies, and the like.

MR. DEACHMAN: Well, Mr. Gerin-Lajoie, what do you suggest? Is it a move toward the formation of fewer retail units? What is it you have in mind which would move us toward these fewer units? Let us have that clear.

MR. GERIN-LAJOIE: Yes, fewer in number.

MR. DEACHMAN: But what would cause the fewer number? Are you putting that forward as an hypothesis as to what would happen if we had a fewer number of retailers? If not, what is it you have in mind which will move us toward a fewer number of retailers?

MR. GERIN-LAJOIE: The Commission has heard complaints, and there were quite a number of bankruptcies for instance in the appliances business. The remedy, according to some associations and persons who have appeared before the Commission is that we should go back to resale price maintenance by the manufacturer.

Well, I put this question to you: if we were not to go back, is it possible that it would be good for the country generally and for the consuming public, if we had a smaller number; because we would have a lesser number of people going into that business -- perhaps after we had a number of bankruptcies, or people coming out of

the business before becoming bankrupt.

MR. DEACHMAN: Well, let us take this question in parts. This thing seems to get itself into several parts. Let us take bankruptcy, first of all. I think that every Tom, Dick and Harry who has a thousand dollars in his pocket, or even less than that, contemplates the idea of becoming a retailer, whether he ever gets that far or not. A great many of them do commit the folly of doing it.

Unfortunately the public believe that retailing is a field into which anyone can get, and the fact is that that feeling on the part of the public is not borne out by the facts. It takes a considerable amount of skill to be a substantial retailer.

THE CHAIRMAN: Well, they can get in.

MR. DEACHMAN: Oh yes, they can get in -- it is easy to get in. There is nothing like it. It is one of the few places everybody can get in. But once you do get there it is a quite different situation. The bright ones stay with it; the less bright ones perish.

The Financial Post of a week or two ago gave us the statistics as to what happens to the ones that go in without looking at the facts too closely. It says:

> A survey shows that approximately 226 Canadian firms --

And it deals with firms generally.

-- in every 227 came through the highly competitive conditions in trade last year. Of the 1,039 which failed, 923 or 89.8 per cent had a lack of experience in the line, lack of managerial experience, unbalanced experience or incompetence as the root cause. And the greatest of these was lack of managerial experience, at 35.9 per cent. Neglect is listed as causing another 61, or 5.8 per cent of failures --

And so on. In other words failures in business are due to failure in management, lack of experience, and no knowledge of the business, and so on.

THE CHAIRMAN: But not as a result of resale price maintenance?

MR. THOMSON: I was afraid of that.

MR. DEACHMAN: As a result of resale price maintenance? -- Well, all those who know how to stay in business, stay there not necessarily by clinging to the same line, year in and year out. The retailer who finds that the pressure is on him, in connection with one particular line, to the point where he can no longer make an adequate profit on it, may have to move out of that line and into another line.

And I believe we can truthfully say that resale price maintenance has resulted in loss leadering, and that those merchants who know how

to retail and are staying in business year in and year out, are moving out of those lines and abandoning them to the price cutters. We do not contend that intelligent retailers are being driven out of business by resale price maintenance.

THE CHAIRMAN: You mean by the abolition of it?

MR. DEACHMAN: That is right. Intelligent retailers, the independent ones, will still be in business in Canada, no matter what happens. They will be here, just as long as the chain stores and the department stores and everybody else are here, and they will be doing a brisk competitive business with them -- and in many cases they will be leading the way into new fields.

But I do say they will be driven most certainly out of some lines and driven to do other things, by various aspects of government legislation.

MR. FORST: You mentioned earlier a question as to whether it would be to the benefit of the public if, for the sake of argument, fewer merchants handled appliances. They can do so by getting a larger volume, and therefore taking a smaller margin of profit. That is a fair argument -- except it could be reversed. It seems to me lower prices always prevail when more people are in a business. And incidentally, some

of us are getting a pretty fair share of the appliances business, and we are not arguing on behalf of ourselves. It is a fair argument to offer, that the more people you have in one line, the lower are the prices. But the fewer people there are in it, the closer you get to a monopoly, to the conditions of monopoly.

MR. GERIN-LAJOIE: At the retail level?

MR. FORST: Yes, and it may very well happen -- perhaps not next year, or the year after, or five or six or ten years. But if, for the sake of argument, one type of merchandise was handled only by a dozen or so merchants in a city the size of the metropolitan area of Vancouver, that price could very well go up. Because they would then have control of the situation.

I do not think anybody in business is going for just a small profit. They go for a big profit, if they can get it. I think that the fewer merchants that were in it, the higher the price would go, eventually, regardless of how cheaply they could afford to sell it. They could control the situation.

The more merchants who are selling an article, in my opinion the lower the price would be for the consuming public. There would not necessarily be more profit for the dealer, but I am looking at it from the public's standpoint.

THE CHAIRMAN: It might mean more bankruptcies.

MR. FORST: Probably so, it might mean that; but I think a more competitive position is better than a less competitive position.

MR. FAVREAU: As long as more numerous retailers are allowed to compete. If, however, you have resale price maintenance that forbids everybody to compete, it might well not be.

MR. FORST: There are other methods of competition, other than just by way of price.

MR. DEACHMAN: You are speaking now of resale price maintenance forbidding them to compete.

MR. FAVREAU: And he says that there are other means of competition, other than prices.

MR. THOMSON: Some of the so-called price cutters -- they reduced the price in some form. But they got it back from the time payment men in another form. Frankly, some of us had to resort to the same thing. In other words, you have to make a profit in business; there is no use kidding each other as to that. So they reduced the list price and charged the fellow who buys on time a terrifically high finance fee -- much higher than would be normal if the price was a little more fair.

Whichever way, you make a profit. The one misleads the customer, -- that you are giving him something cheap. And then you make it up out

of the finance fee, and you drive a Cadillac. It is another way of doing the same thing.

THE CHAIRMAN: A lot of people are driving Cadillacs.

MR. THOMSON: Yes -- and there are a few in the appliances business.

MR. FORST: Not me.

THE CHAIRMAN: Have you definite evidence of big increases in finance charges since this legislation was passed?

MR. THOMSON: We increased our own about a year ago, for no other reason than to recover some profit that way. We checked with two of the department stores in Vancouver, which had done the same thing within two months, and we brought ourselves up. We brought ours in line with the department stores.

Now, we could still today operate them at a lower cost basis; but it is a hidden profit that the customer does not cry about. Our rates are still lower, by far, than several of these so-called price cutters. Even then, we are away under them. And we are charging more than we used to charge in order to recover profit in that manner.

THE CHAIRMAN: More than the cost of financing really is?

MR. THOMSON: More than the cost to us is, yes.

MR. FAVREAU: Do I take it that,

psychologically, it is your experience that the public will look with less favour on a bargain in financing than they will a bargain in apparent pricing?

MR. THOMSON: Yes; so that there is this so-called margin to operate on. My contention is that efficient operators' costs are approximately the same.

D.B.S. can give you those figures easier than we can. Price maintenance should be tied in, somewhere, with efficient operators, not with inefficient operators. And then, these hidden costs you do not see, and the public do not see, do not require to be there. In other words, if you have to get it back somewhere, so what? The customer is not saving money, although he thinks he is.

THE CHAIRMAN: When he pays cash he does.

MR. THOMSON: If he pays cash, yes. But, then, the man who pays cash is all right anyway. The man you have to protect is the working man who is buying on time, the average Joe, who has less understanding of financial affairs. He does not know anything about it. When you say that it is $30 he says, "Oh, just $30?" The fact that it is 15 per cent does not bother him a bit. Of course you and I would not pay it; we would borrow it from the bank. Nevertheless he does not think of that, nor can he always borrow from the bank.

THE CHAIRMAN: And does he ask for the percentage sometimes?

MR. THOMSON: With us it is one of the least questioned conditions in a contract. At least that is our experience. He says, "That is quite a lot", and you say, "Well, it is two years" and he says, "Sure, that is right" -- and he signs his name, and away he goes.

MR. WHITELEY: Has there been no increase from the companies who are engaged in that business, with the increase of interest rates?

MR. THOMSON: There was an increase when the bank increased the rates in December, or the finance companies. They increased their rates from one-half to one per cent, and our bank increased it with them. All the chartered banks and all the finance companies in Canada. It was in December of last year. Our rates went up from the finance company we deal with,in January, by the exact amount of one-half of one per cent.

MR. WHITELEY: What year?

MR. THOMSON: Ours went up in January of this year. It was December of last year that the banks increased the rate.

MR. WHITELEY: It seems to me the interest rates started to move up in the early part of 1953.

MR. THOMSON: Oh, the finance companies, as a group, changed in December of 1953. But we are not paying any more at the bank now than we

were paying three years ago. But the finance industry is.

MR. WHITELEY: Well, my recollection is that interest rates started to rise and reached a peak, and were turned off, because Canada Savings Bonds, as I recall, went up half of one per cent -- which was about a year ago.

MR. THOMSON: That is right. The general interest rates were on that scale. And the finance industry has been fighting the bankers -- and yet all the banks did it simultaneously -- which seemed to be a bit of price maintenance. But they increased their rates to industry by half of one per cent, simultaneously on a given day right across the Dominion of Canada, and if there ever was a monopoly, gentlemen, that is it. And you cannot beat that rate with a bank.

THE CHAIRMAN: A combination, rather than a monopoly?

MR. THOMSON: Nevertheless, that is what happened. You cannot shop around. The same rate exists in every bank for that purpose.

MR. WHITELEY: The companies engaged in these so-called financing operations -- they must have reflected the change in the interest rates.

MR. THOMSON: I beg your pardon?

MR. WHITELY: They must have reflected the change in the interest rates, in their charge?

MR. THOMSON: Yes; our rate went up one-half per cent when the bank increased theirs --

one-half of one per cent.

MR. GERIN-LAJOIE: Did you increase your own charges to your customers previous to that time?

MR. THOMSON: Yes, prior to that.

MR. GERIN-LAJOIE: And do I understand that the people you call price cutters all make money, or recover part of their lost profit from charges of that type, financing charges, to your knowledge, in Vancouver?

MR. THOMSON: Two of the major operators in Vancouver -- their rates are still much higher than ours. That I know.

MR. FORST: Not all, because some small merchants, unfortunately, are in the hands of finance companies, and they do not get any interest out of it at all.

MR. GERIN-LAJOIE: That is what I have in mind.

MR. FORST: I know of one company that has made the statement -- a large company -- and, of course it must remain anonymous -- but one large appliance firm in Vancouver has made the statement that he does not care if he makes a cent on his appliances, because he is making it on his interest.

MR. GERIN-LAJOIE: Is it not a fact that quite a number of appliance dealers -- I know it is like this in other parts of Canada -- do not finance their clients or customers?

MR. FORST: The largest percentage of them do. Only the big ones do.

MR. GERIN-LAJOIE: And they still cut prices?

MR. FORST: No, they do not so much. They are hoping to get close to the list price. In other words they want to get a normal markup on their goods. But most of the price cutting, at least in Vancouver, I think, has taken place -- and when I say "price cutting" I mean price cutting where they have cut close to cost. You can cut prices if you buy cheaply enough. But I am referring to price cutting where they have cut close to cost, at much less than the normal margin -- many of those large firms are doing that, and financing themselves.

THE CHAIRMAN: They have very substantial capital in their business?

MR. FORST: Yes, they are big operators and good operators; but they are taking advantage of cutting the price of merchandise to get the benefit of higher interest rates. And they have a lot of other hidden things, too. For instance, I happened to see a letter once to a customer from one firm stating that because they were delinquent two months in their account that, from now on every notice they receive will cost $3. I do not know whether they can make that stick or not, but they have attempted to do it, anyway. So that is another hidden charge.

THE CHAIRMAN: Do you mean that those retailers who handle their own financing, carry their own financing paper, charge a substantially higher rate than the regular finance companies do?

MR. THOMSON: May I answer that question -- because we deal with a finance company, and I think Mr. Forst handles his own paper.

There seems to be a lot of difference in the rate with the finance companies, too. The rate at which we buy money from the finance company -- we deal with a locally owned company in Vancouver -- is a lower rate than most national companies. We sell our money, you might say, that we buy from them today, at a profit.

For many years -- as a matter of fact for twenty-four or twenty-five years we have been in business -- we gave that to the customer at what it cost us. In other words, if it cost us $6 for $100 we charged the customer $6 for $100. But with this condition that has existed during the last while -- and I believe the same condition has existed in the automobile industry longer -- nevertheless it has been the policy of finance companies to set up rates with what they call a loss reserve feature in them.

In other words it is a feature whereby a dealer would make a profit on the money advanced by the finance company, in the same way as a larger company who has bigger financial interests buys money from the bank and sells it at a profit.

But you cannot make as long a profit because of the fact that the finance company costs more money, or more percentage.

Then, this particular company said, "There is one way you can recoup some of your losses, or get nearer to making a profit, whichever way you wish to put it, and that is by creating a loss reserve within the charges." I said, "Our rates have been one-half of one per cent for so many years, that I cannot remember how long."

Well, everybody else's rates are far higher than that. So, as I say, I phoned two of the leading department stores in this city, and I checked their rates. The other rates of people who supposedly cut prices, we already knew. We were away under them at that time. And we put our rate up at that time -- which was better than a year ago -- to the average of this leading department store, or two of them, as a matter of fact. We are in the same rate as they are. We are, in fact, making a profit on it, which we were not before. If this condition had not existed, we would not have increased our rates.

--- Luncheon adjournment.

Monday, July 5, 1954

--- Upon resuming at 2.30 p.m.

THE CHAIRMAN: Mr. Gerin-Lajoie, will you continue?

MR. GERIN-LAJOIE: Mr. Deachman, I do not have very much more to ask you. We will go direct to your general recommendations. Will you please tell us, Mr. Deachman, whether you have any idea how your recommendation No. 1, at page 20 of your brief, might work out? I refer to the recommendation that the laws and regulations governing the use of advertising be more rigidly enforced and that, in particular, the government give consideration to some form of legislation restricting the use of exaggerated claims regarding interest payments, down payments, trade-in values and comparative prices. Is it just a general wish, or do you have some idea of how that could be worked out?

MR. DEACHMAN: I believe, Mr. Chairman, federal legislation already exists for the restriction of abusive practices in advertising, and where that legislation exists, I think the mechanism for policing it -- some investigation should be done in regard to the policing of that Act, or steps should be taken to make such legislation more effective.

THE CHAIRMAN: You are thinking of the former section 406 of the Criminal Code, are you?

MR. DEACHMAN: Yes.

THE CHAIRMAN: Have you any suggestion

as to any amendment to it, or do you think it would merely be a matter of the method of enforcement rather than the terms of the section itself?

MR. DEACHMAN: We have not gone into it exhaustively enough to make recommendations here as to whether it is a question merely of enforcement or whether it is a question of requiring some suitable amendment of the Act.

But I have here before me something that has been handed to me by Mr. Forst bearing on a problem which we touched upon this morning. Retailing Daily, an American publication, discusses the question of vacuum cleaner sales, in connection with which the F.T.C. has initiated a hearing to get something done about this same problem of misleading advertising. I submit that here is a case where one federal body is doing something about this particular question.

MR. FAVREAU: It is the Federal Trade Commission that has initiated the move, do you say?

MR. DEACHMAN: It reads:

> Hearing examiners' initial decision filed yesterday would bar Clean-Rite Vacuum Stores Incorporated, here ---

And this is Washington.

> ---from the use of bait advertising of vacuum cleaners. The order would prohibit the company from representing

> that merchandise is offered for sale
> when the offer is not bona fide.
>
> Also banned is the use of any sales plan or procedure involving the use of false, deceptive or misleading statements in advertising, which are designed to obtain leads or prospects for sale of other merchandise --

And so on.

THE CHAIRMAN: That is something that falls with the jurisdiction of the Federal Trade Commission?

MR. DEACHMAN: Yes, within the jurisdiction of the Federal Trade Commission.

THE CHAIRMAN: And this is an actual case?

MR. DEACHMAN: Yes.

THE CHAIRMAN: In which the first state has been reached and a ruling has been given by the hearing examiner?

MR. DEACHMAN: Yes.

THE CHAIRMAN: There may be an appeal from it, and further examination of the case by the trade commission itself.

3) MR. DEACHMAN: Is there similar machinery in effect in Canada, sir, by which they could be brought before any federal commission, or your commission, or some other body, for examination and decision?

THE CHAIRMAN: Our Commission has no jurisdiction to settle questions and to determine rights

of businessmen or citizens. We only make report to the Minister of Justice. At the present time there is no commission with any such authority. The only place where any jurisdiction at present exists would be under the Criminal Code, section 406 -- at least, that was the old section number; I forget the new section number.

MR. DEACHMAN: Which would be a direct case of one vacuum cleaner company in its own interests taking another vacuum cleaner company in the courts on grounds of misrepresentation, is that correct?

THE CHAIRMAN: Yes, or somebody else.

MR. DEACHMAN: Yes, I understand.

THE CHAIRMAN: Taking it before the courts instead of the Federal Trade Commission.

MR. DEACHMAN: That is what it amounts to.

MR. FAVREAU: Although the powers of the Federal Trade Commission are much broader.

THE CHAIRMAN: Yes. The powers given in their legislation may operate more effectively than our provisions in the Criminal Code, at the present time.

MR. DEACHMAN: How would it come about that some action could be taken in the case of the Clean-Rite Vacuum Stores Incorporated in the United States, and something be done about it, and with the same set of circumstances existing here nothing could be done about it -- and nothing is

done about it. I think -- well, I have an advertisement here of Electrolux, the old rebuilt Electrolux.

THE CHAIRMAN: We would like to hear any suggestions you have on that score. It may be that in the United States the affected merchants are more anxious to start proceedings than they are in Canada. I do not know just what the situation is in that respect. And it may be that the legislation makes it easier for them to do so than it is here.

If you have any suggestions along that line we would be delighted to have them. We will be studying the Acts, of course, and undoubtedly that will be one of the things we will be looking into more closely. We would be glad to have the views of businessmen in connection with it, as an assistance to us.

MR. FORST: It comes back again to the matter of the abolishing of list prices, where a firm could take a trade-marked item that is well known, nationally advertised, and advertise it at a considerably lower price than what is the normal or set price, and hang onto that article for a period of months, and never sell it for that matter -- similar to this thing.

MR. WHITELEY: This is somewhat different; this is a rebuilt.

MR. FORST: I am talking about something which is not necessarily rebuilt. This merchant,

because of high-pressure sales methods within their firm, for instance, could persecute a manufacturer which they do not like, for some obvious reasons, and the manufacturer might even be in a position where he might have to sell him, even if he did not want to. But they would not sell this article. They would just hang on to it. But it would break down the whole structure under this manufacturer's production.

That is one of the things that can occur with the present abolishment of list prices -- because the manufacturer cannot do a thing about it. He might not want to, but there is nothing he can do about it, even if he did want to.

MR. WHITELEY: Surely a case where a retailer would feature some well-known branded article and then refuse to sell it would soon react to his disadvantage.

MR. FORST: Well, it is surprising -- in large centres such as Vancouver, Toronto and Montreal, you can get a lot of people who do not find out about his practices until he has had a pretty good share of the market.

MR. THOMSON: They do not do it just that way, either.

MR. WHITELEY: The cases we had demonstrated to us in Toronto, for example, where they took items such as floor polishers and cut the price to almost cost, or practically below cost,

for some person buying in very limited quantities -- nevertheless they sold a large number of those items. They did not refuse to sell.

MR. FORST: Yes, on the smaller items, they do.

MR. DEACHMAN: But this is different. I have before me here an advertisement which appeared in the Hamilton Spectator. The advertisement says:

> Famous Electrolux, beautifully rebuilt, complete with seven new attachments, manufactured by State; one year guarantee. Breeze through your spring cleaning with this model. You will wonder why you ever did without a vacuum cleaner. $10.95, full cash price ---

And then there are pictures of the machine and the attachments.

MR. WHITELEY: Resale price maintenance would have no bearing upon that.

MR. DEACHMAN: No, that is a rebuilt vacuum. We are talking about abusive advertising practices, and the way this works out in connection with promotional techniques on other merchandise.

Exactly the same system is taking place here as took place in the F.T.C. case which they have before them. And the method of proceeding with the sale of other material,

using this as the lead for gaining sales, he explains here. He says:

> The F.T.C. examiner, Earl J. Kobe, cited published, broadcast and telecast advertisements purportedly offering reconditioned Electrolux vacuum cleaners at $8.75 and $10.95, and represented that these would do a satisfactory job of cleaning.
>
> Mr. Kobe held that these ads were not a bona fide offer to sell cleaners, and described them as part of a sales plan or procedure adopted by the respondents to sell their high-priced vacuum cleaners. Mr. Kobe added that the advertised cleaners actually were of little or no value and would not do a satisfactory job of cleaning.

And that is the practice to which we object.

THE CHAIRMAN: It may boil down to this, that what you would propose to deal with a matter of that kind would be some amendment to the former section 406 of the Criminal Code; or, you might propose some amendment to the Combines Investigation Act which would give some authority to the Director of Investigation and Research or to this Commission or to some other body, rather than reference directly to the courts.

I would like to have your views on how that situation might be dealt with here. The

law is not identical in the United States and Canada. Certainly their federal trade commission has powers which we do not possess here. And that may be partly because, as Mr. Favreau has just indicated, they have a different constitutional set-up, and because of the different interpretation that the Supreme Court of the United States has placed upon that constitution as compared with the way that the Supreme Court of Canada and the Privy Council have interpreted the constitution of Canada.

It may be difficult to handle it at the federal level in Canada, to a greater extent than is true in the United States. However, we would be glad to have any suggestions you or your organization might wish to make for dealing with this problem, which you point out is that of deceptive advertising of one kind or another. It might also help us with our thinking on the same subject, when we come to look into it.

MR. GERIN-LAJOIE: I take it from what you say, Mr. Deachman, that the main trouble, if I may say so, that you have in mind in your brief is not really loss leadering but, much more, deceptive advertising; or would that be going too far?

MR. DEACHMAN: That is going too far. I think what we have in mind is this, Mr. Gerin-Lajoie, that loss leadering is only one of a number of practices, and that a practice as

deceptive as this one which we have just outlined is, in itself, just as bad, just as damaging to the seller of vacuum cleaners who sells them in a normal and legitimate way, as is the practice of loss leadering of vacuum cleaners. The two are pretty well indissoluble, in looking at the problem which is before the retailer now -- that is, of deceptive representation to the public and predatory retail practices.

THE CHAIRMAN: Our actual inquiry has been limited to loss leaders. But that means that it takes in things which bear on the problem of loss leaders, even though they may be of a somewhat different nature themselves. For example, if they are used in connection with loss leadering, we can look at them. But we are not dealing with all sorts of business practices. The door is not brought wide open for us.

MR. DEACHMAN: No, but out of the course of your inquiry, if sufficient representations were made to you that other practices similar to loss leadering were part and parcel of the same trouble, you would be able to make general recommendations that perhaps additional inquiries ought to be made in that direction; is that correct?

THE CHAIRMAN: I do not suppose there would be anything to stop our doing that.

MR. FORST: Would this be a phase of loss leader advertising or of a loss leader type

of promotion that might indirectly not be to the advantage of the consumer -- and certainly to the great advantage of people in similar types of business? For instance, one large firm -- and I think we can say it is in this city -- started up a department, or developed a department -- perhaps I should put it that way -- developed a department in which every item in that particular department was sold at a price away below what was the accepted list price. It was at approximately, shall we say, 10 per cent above cost -- which is much lower than articles of that sort ordinarily can be merchandised.

They set up this department specifically for that purpose. And every article in that department, so far as can be ascertained, is sold on that basis. It is obvious that they did not put that department in for profit -- because I am pretty sure I can develop the fact that on their advertising alone it would take more than half of that 10 per cent gross profit. Because we know the rate of advertising in the newspapers, and we know the costs. And we know approximately what they sell; so we can easily tell that the percentage of advertising would be at least half, and the rent would take care of a lot of the other 5 per cent.

Now, they have developed that one department for no other purpose than obviously to get people into their company's store. If I

did the same thing, that would be the only reason I would develop it. They were not in this particular field to any degree before, although they might have had these particular items available. But they developed this section in their firm for no other purpose than to cut the price on these items.

And of course what they have gained from that is that they have developed an atmosphere, you might say, around their organization that they sell for less. It might not necessarily apply to their other merchandise; but in this particular department it does apply.

In other words, have they helped the consumer? Because they are not necessarily giving this across the board in their whole company. It has certainly been detrimental to the manufacturer, because the manufacturer's other outlets are disappearing. And they certainly have been detrimental to other people in the same business who are trying to make a normal living out of that particular type of business. Does that cover this matter of the loss leader problem?

MR. WHITELEY: Is there a physical separation in their store?

MR. FORST: In a sense; it is in one section of their store, yes.

MR. WHITELEY: How do they indicate to the public that this section operates on that

basis?

MR. FORST: These particular items are advertised at 10 per cent above cost price.

MR. WHITELEY: Individual items?

MR. FORST: Yes.

MR. WHITELEY: How do they indicate to the public that this particular section of their store is being operated on that basis?

MR. FORST: Well, the impression they are trying to give is that the whole store is operating on a somewhat similar basis.

THE CHAIRMAN: It might be better to spread these articles throughout the whole store.

MR. FORST: I would say so, personally; but that is the way they are operating. The other items are available in a rather close area. It is in their store. But they have developed a separate promotion and a separate advertising program in connection with a separate section of their store for this purpose.

MR. WHITELEY: Have they always had the same lines?

MR. FORST: I am not speaking critically, mind you. I am just giving this as an example.

MR. WHITELEY: Have they always had the same lines?

MR. FORST: Yes, the same lines. And the advertising appears three or four times a week on a similar basis.

THE CHAIRMAN: But they sold them in no other part of the store?

MR. FORST: No, just in this one section. I am referring to table appliances such as electric irons, toasters, and so on.

THE CHAIRMAN: Traffic appliances?

MR. FORST: And they have gone even farther afield into drygoods items, and so on.

MR. GERIN-LAJOIE: Are they using nationally known brands?

MR. FORST: Yes, they are spreading from some national lines, but they are,in the main, using nationally advertised lines.

MR. WHITELEY: How long have they operated on that basis?

MR. FORST: I would say almost two years, since this legislation was passed. In other words, it would seem to be a development from that.

THE CHAIRMAN: Has it been on an increasing scale, or has it pretty well held along the same line?

MR. FORST: It did increase, and then it seemed to taper off, and has remained about the same for the last six months.

MR. THOMSON: So much so that one of the manufacturers told me that he did not have to travel the country areas any more. None of the dealers in the country areas would buy these articles from them. Because this man runs in his ads that for fifty cents any item will be

mailed to any part of British Columbia.

Well, the little merchant at Nelson, for instance, has not a Chinaman's chance, when it costs him that much to get an article up from the manufacturer, and sell it at cost. And they do not turn over any very great volume in those small towns, as you can imagine. They usually pay a higher price than the Vancouver dealer pays for an article, to begin with. The chances are that they are being sold for less than his cost. So that he just does not stock them any more.

THE CHAIRMAN: If nobody else is stocking them, then this man seems to be doing a tremendous business at a loss.

MR. THOMSON: He is doing as high as 60 or 70 per cent of the business in British Columbia on some items.

THE CHAIRMAN: And he only gets along because of the volume?

MR. THOMSON: He does not make anything on that volume.

MR. WHITELEY: If he is doing it on a mail-order basis, how ---

MR. FORST: His mail order is very small in proportion to the whole volume he would be doing.

MR. THOMSON: On the lower mainland.

MR. WHITELEY: I am wondering whether that could be considered loss leadering. You

would hardly expect a mail-order customer to be unduly influenced.

MR. FORST: I am inclined to agree with that observation. I cannot figure it out. But I think he is trying to give the impression that it is not loss leadering, in that sense, that it is available to anybody. But I would be safe in saying that the mail-order phase of it is rather small, comparatively small.

MR. GERIN-LAJOIE: And you say that his markup is about 10 per cent on those articles?

MR. FORST: Yes. As a matter of fact I have an advertisement here from Kelowna where some items such as kettles, and things of that kind, are sold for less than cost. That is the same type of operation, I suppose.

THE CHAIRMAN: It seems that if he is losing money on all these articles then the more he sells the worse off he should be. If he is doing 60 per cent of the business in British Columbia, he should be going broke.

MR. FORST: He is very successful -- and I say that enviously.

MR.THOMSON: I agree.

MR. FORST: He is not losing on his total operations; that is fairly obvious. If he is, then he is running out of business.

MR. GERIN-LAJOIE: Is he doing business only in the appliances field?

MR. THOMSON: Furniture, too.

MR. FORST: Seventy-five per cent is appliances.

MR. GERIN-LAJOIE: Does he have this low markup on every appliance item?

MR. FORST: No. His markup on the average appliance -- I think his cost would be about the same as Mr. Thomson's or mine. His cost would be about the same -- would be about average.

MR. GERIN-LAJOIE: On how many items does he have such a low markup?

MR. FORST: He advertises appliances, items up to $40 or $50 -- Mixmasters and toasters, irons, kettles, shavers. For instance, -- and we do not even sell any shavers -- but two or three specialty stores have done some nice promotional work in electric shavers. I presume they give good service, and they have developed a nice business.

One day this store, and another store of the same type, appeared with a shaver ad offering a shaver practically at cost. Well, you can well imagine what the fellow in the shaver business exclusively was faced with; you can imagine what would happen to him. He is trying to give service, and give value, and to promote something relatively new. Then, somebody else comes along and cuts the feet from under him.

MR. FAVREAU: Shaving prices.

MR. FORST: Yes, shaving prices.

MR. DEACHMAN: I do not mind quoting something that has already been brought out in somebody else's brief, if I am permitted to do so. I am referring to the brief of the small appliances department of General Electric. I believe this has already been submitted to the Commission. Would it be in order to refer to that brief?

THE CHAIRMAN: Yes, surely; it is a public document.

MR. DEACHMAN: As you say, sir, this is now a public document. I refer to page 9 of the brief where it says:

> No recital of our problems with loss leadering would be complete without special mention of Wosk's Ltd., in Vancouver.

THE CHAIRMAN: You have now mentioned the name.

MR. DEACHMAN: I note a name mentioned in this brief. And, from conversations which have been going on, back and forth, I am almost led to believe that that is what they had in mind. Mr. Wosk, I might say, is a good member of our association.

MR. FORST: And a good friend of mine, too.

MR. THOMSON: He is just smarter than we

are.

MR. DEACHMAN: The brief continues:

This retailer who sells furniture, stoves, major and small appliances, hardware and television sets, has been one of the most consistent and persistent users of our products as loss leaders in all of Canada. His activity is proof of how one retailer can set the price for a whole province. In the five and a half month period from October 21, 1953 to April 3, 1954 he advertised our floor polisher at least sixty-four times in the Vancouver Province at $44.75. During the same period he advertised the Featherweight iron fifty-four times at $9.95 and the kettle forty-five times at $9.95. There was approximately the same amount of advertising by Wosk's in the Vancouver Sun. All other retailers in Vancouver during the same five and one-half months advertised the polisher five times, the iron nine times, and the kettle six times in the Vancouver Province.

The Vancouver newspapers have wide circulation throughout the province. For instance, in Dawson Creek, which is 1,331 rail miles from Vancouver, 26 per cent of the homes get the

> Vancouver Province. Exhibit 1 shows the circulation of the two Vancouver papers in several typical British Columbia cities and towns.

And it refers to a table showing ranges in circulation from 26 per cent at Dawson Creek up to as high as 46 per cent at Vernon.

MR. GERIN-LAJOIE: Can one of you gentlemen tell us the price at which you sell those items?

MR. THOMSON: We sold it during that period for $44.75. The price now is $39.50, because of the excise tax.

MR. GERIN-LAJOIE: What was the suggested price of General Electric?

MR. THOMSON: $59.50 at that time -- although he was supporting the previous price of $64.50, I believe.

THE CHAIRMAN: It is $54.50 now?

MR. THOMSON: Yes. He still advertises at the regular $64.95, which was in existence fifteen months ago.

THE CHAIRMAN: And the price is now a sort of general price, below $40?

MR. THOMSON: $39.50 we sell them for now.

THE CHAIRMAN: The list price does not mean anything to anybody any more?

MR. THOMSON: Just as they say in the brief, he has established the list price. But, as I said earlier, it is just a matter of establishing

it.

THE CHAIRMAN: He has established a selling price.

MR. THOMSON: Yes, he has established a selling price, which has become the list.

MR. WHITELEY: You still stock floor polishers?

MR. THOMSON: Yes, we stock them, but we do not have them where you could trip over them.

MR. WHITELEY: Do you have any other lines of floor polishers?

MR. THOMSON: No. The G. E. is so well known and so highly respected, so far as the consumer is concerned, that it is very difficult to try to switch on them. We tried it and it did not work out.

MR. WHITELY: Apart from trying to switch, I am wondering whether you stocked more than one.

MR. THOMSON: Well, we normally carry Universal, as well; but, even reducing its price to the same price as G. E., at $39.50, or $44.75 as it was then, you could not switch many housewives to it. The only reason we did was that we were able to buy them at a slightly lower cost. But it would not work. We endeavoured to do that, practically. We both had the same list, you see.

THE CHAIRMAN: General Electric sells on its reputation. That particular item of

General Electric sells on its reputation?

MR. THOMSON: There are quite a few of their small appliances which have been household words for a great many years -- so long, in fact, that a person just automatically puts his faith in them. The company has spent a lot of money, and the rest of us have spent a lot of money in demonstrating them for umpteen years. A woman automatically assumes that the G. E. is O. K. If it was a Jones brand, he would have a dicken's of a job doing anything with it. Because there are many types of polishers sold at much less, but they get no play at all. Your State friend has one at $12.95, I think. And that is a bona fide offer.

MR. FORST: But you should see it! I understand it is a piece of tin. Actually, State sell quite a few such polishers.

THE CHAIRMAN: I think we had better speak one at a time. The reporter must be going crazy trying to follow us.

MR. THOMSON: He told us earlier that he was.

MR. GERIN-LAJOIE: I would like to refer to your second recommendation where you suggest that, particularly in regard to food retailing, the government give consideration to some form of legislation which would make it obligatory upon any retailer to supply, upon request, to any other retailer any item at the same price at which the

said item is made available to the consumer, less an appropriate wholesale discount. How would that appropriate wholesale discount be determined, in your view?

MR. DEACHMAN: Mr. Chairman, this theory or formula was put forth by Mr. Shelly of Saskatoon, and it was discussed thoroughly at the annual meeting of the Retail Merchants Association in Edmonton, where he presented his entire paper in regard to this; and he told us at that time that he proposed to submit it as part of his brief.

THE CHAIRMAN: It has been done.

MR. DEACHMAN: It has been done now, I believe. We endorsed the brief, in general principle, at that meeting; and therefore that clause is put in here. I have no great knowledge of the workings of it myself, in comparison with what Mr. Shelly must have already submitted to you, but the principal formula was inserted as a recommendation in our brief in support of what the Retail Merchants Association of Saskatchewan and the national association are doing to support Mr. Shelly's brief.

THE CHAIRMAN: Mr. Shelly's brief was directed toward food retailing.

MR. DEACHMAN: Yes. It applies almost specifically toward food retailing, it would seem. But we present that general formula, with recommendations.

THE CHAIRMAN: Your recommendation does not specify or limit it to food retailing. I was wondering whether you had considered that the circumstances might be sufficiently different that the formula might be more difficult to apply.

MR. DEACHMAN: It was only two weeks ago that the formula was disclosed to us, and we have had very little time to explore it, as to its possible application in other fields.

In section 3 of our recommendations here, we mention its possible uses in connection with the prevention of wholesale-consumer selling, which is a very annoying thing in this province and, I believe, in other provinces as well, particularly throughout the Prairies. And we have inserted that there more or less with a view to being able to explore that field more fully, as to its application in retailing fields other than food.

MR. GERIN-LAJOIE: If I may now turn to recommendation No. 4 --

THE CHAIRMAN: Might we have another word about No. 3. I gather so far as No. 2 is concerned -- Mr. Shelly's recommendation -- that you have not yet had time to work it out in your own mind, to work out the application of it, or to examine the difficulties in making it work, even in the food industry?

MR. DEACHMAN: And even not too closely in food, sir. It gained general acceptance at the meeting in Edmonton, but there were some

reservations on the part of some food merchants there with regard to particular sections of it -- that it might be found difficult to work out and difficult to apply. And so, while we support it in principle, it is something we feel needs more exploring before it is perfected.

THE CHAIRMAN: That is, while you support it, in principle, you are not prepared to say that this will solve the problem for all forms of trade, and that you would like to see it adopted because of that?

MR. DEACHMAN: No, not by any means. Nor do we want to go so far as to say that it solves the whole problem so far as the food industry is concerned.

THE CHAIRMAN: And the third point, what do you mean when you say that it is further recommended that similar legislation be made to apply in the case of wholesaler-consumer selling and discount selling? So far as food is concerned, Mr. Shelly's suggestion or proposal applies to discount selling, because that is the only kind of case where you would get a demand by other retailers for the goods.

MR. DEACHMAN: That is right.

THE CHAIRMAN: How do you propose to make it apply to wholesale-consumer selling?

MR. DEACHMAN: Wholesale houses, particularly, in industrial areas and construction and logging areas in the interior -- from time to time

we receive complaints. In fact we are almost constantly receiving complaints by the general public living in the area or the place where an industrial account operates, or an industrial commissary, or something of that nature. Where that operates it naturally has destroyed the livelihood of the retailer there, where they operate in the field in which he is willing to stock and maintain and sell.

THE CHAIRMAN: We understand the problem; but how are you going to apply Mr. Shelly's principle of wholesale-consumer selling? How would it work? I am not sure that I understand what you have in mind.

MR. THOMSON: The way it works in some points here is that some of the manufacturers used to give us an undertaking that they would not sell to a retail consumer. In fact, if we caught them at it -- and sometimes they did get caught -- they would allow us our normal profit on the article on which they had by-passed us.

In other words, if it was an item of $500 and there was a normal profit of $125 in it, and they had by-passed the dealer, and the dealer proved that they did, then it was up to them to recompense the dealer to the amount of the profit that he would have made, had he sold the article. Now, in some instances they also did that.

THE CHAIRMAN: It would be rather difficult to do in a place the size of Vancouver,

where you have a lot of dealers?

MR. THOMSON: It would be. But he normally got caught by one of them. That is how he got caught.

THE CHAIRMAN: The squeaky wheel would get the money.

MR. THOMSON: That is about the size of it.

MR. FORST: Pre-war one wholesaler, who previously was a retailer, and one of the more, shall I say, ethical wholesalers, used to have a fairly good formula. This particular wholesaler was handling many items, and he was more or less obliged to supply some items at less than the regular list price. That is fairly logical in some instances.

He used to have, let us say, ten or fifteen dealers, and he would give each dealer the particular deal in question at a slight discount. The dealer would save on the handling, because he would have very little selling cost -- because he would actually have done the selling. So the dealer could afford to take a lower price. And that wholesaler, who was a quite ethical one, pleased all his dealers and they all got something out of it. At the same time he satisfied the customers.

That is one way that the wholesaler could co-operate with his dealer, and everybody would gain to some degree.

THE CHAIRMAN: That is a little different from the proposal by Mr. Shelly.

MR. FORST: That is one way of handling it.

THE CHAIRMAN: Mr. Shelly's proposal is where one retailer sells at a price which the others think is too low; in those circumstances they can require him to supply them with a certain quantity of goods which they think he is selling at that price, which is too low, in their opinion.

I am trying to see how Mr. Shelly's principle could be applied to the wholesaler-consumer. I am trying to get at that. Your suggestion is along different lines.

MR. FAVREAU: If one wholesaler, for instance, would sell one given item at a wholesale price to a retail customer, then the retailer could force him to sell to the extent of $300 worth of this merchandise at the wholesale price, less 5 or 10 per cent.

THE CHAIRMAN: Do you mean to cut the wholesale price to him?

MR. FAVREAU: Yes, the wholesale price being the price at which he sold the customer. He is obliged to sell $300 worth at 5 per cent or 10 per cent less than he charged the customer.

MR. DEACHMAN: He has obtained merchandise from the manufacturer at the

manufacturer's selling price.

MR. FAVREAU: Yes.

MR. DEACHMAN: That is a function which is denied to the retailer, who must obtain his merchandise at the wholesaler's selling price. If the wholesaler is going to use his profit to undersell the retailer in the retail field, then the retailer, under Mr. Shelly's formula, should have some recourse against the wholesaler, to purchase at that wholesaler's selling price, less the appropriate discount applied to the wholesaler.

THE CHAIRMAN: The price that the manufacturer sold to the consumer, less a certain amount.

MR. FAVREAU: Either the manufacturer or the wholesaler.

THE CHAIRMAN: The same price as the other man paid, less 5 or 10 per cent -- that is the Shelly formula. So that it would be the price which the manufacturer charges the consumer, whether that is the regular wholesale price or not -- whatever it is -- less 5 or 10 per cent. If he sold at 10 per cent above his wholesale price, that would not do the retailer much good, even though it was a considerable cut to the consumer. The formula would not work out to help the retailer at all.

MR. GERIN-LAJOIE: Mr. Deachman, in connection with recommendation No. 4, you suggest that legislation be passed so that the Department

of Justice could grant a licence enabling vertical arrangements between manufacturers and distributors including, I imagine, retailers. Would those licences, in your view, give unlimited power to make arrangements; or would every arrangement be under the control of the Department of Justice or some officer?

MR. DEACHMAN: Under the Restrictive Trade Practices Commission there is now power to investigate cases of vertical integration as well as cases of lateral integration. And if it already has the power to investigate and to police and to report upon such integration, it is not a great step to ask that it licence such integration, if it proves desirable -- that is, if they licence vertical integration, where there is sufficient competition existing side by side on a similar item. So that there is no increase in price or combining on a lateral basis.

MR. GERIN-LAJOIE: To take a particular instance, do you believe that a licence should be granted to a manufacturer enabling him, for instance, to agree with his distributors on the price of a Mixmaster, and that the government would have no say in the price fixed?

MR. DEACHMAN: I would say this, that if the government were satisfied that a Mixmaster was an item which met with competition from several other manufacturers, perhaps each with its own integrated vertical arrangement, and that the

channels of trade were not unduly restricted by tariffs, and so on, which prevented the entry of other manufacturers into the field, to compete in that line, in order to keep it upon a competitive basis, I think there would be an instance where a licence could be issued to allow them to engage in any form of vertical integration that they saw fit to prevent practices of loss leadering, and some of the practices which have been reviewed here this morning.

MR. GERIN-LAJOIE: So is it your belief that in such cases there should not be any price competition at the retail level between retailers on a particular item, let us say on Sunbeam Mix-masters?

MR. THOMSON: Excuse me; it seems to me that when you say "competition at the retail level" that, so far as efficient operators are concerned, the difference in their cost of doing business is very, very small. Frankly -- well, it may vary three or four per cent. Let us assume that it does. If it is an item worth $40, the biggest variation in the price should be -- if the cost of doing business is being considered by the dealer -- perhaps a dollar or $1.25. In other words, that is the most that it could actually vary, if every fairness was being considered, so far as price is concerned.

MR. GERIN-LAJOIE: That is your opinion, apparently. But do you think that every

every dealer in the country would agree with you on that point?

MR. THOMSON: I qualified that by saying "efficient operators".

MR. GERIN-LAJOIE: Is it not possible new methods of merchandising might develop? Is it not possible that we might have self-service in the merchandising of Mixmasters and other electrical appliances generally, and that that would lower the cost?

MR. THOMSON: That would lower the cost; you are correct in that. In other words, if Sunbeam, who manufacture the Mixmaster, felt that a supermarket could market those things standing in a carton, and could do it for less money, then it would be up to them to sell them -- because their prime reason for existence is to sell more Mixmasters, is it not? They do not care whether you sell them or I sell them. The fact that they are being sold is what they are interested in.

MR. GERIN-LAJOIE: But that would leave no place for initiative at the retail level. It would depend upon the manufacturer allowing a discount in such cases.

MR. DEACHMAN: I think competition at the retail level would develop, provided there were no restrictions upon the number of manufacturers who could enter into a market, to market those goods.

Now, as we stand today, there are some

prohibitions against Italian, German, Japanese, British and American goods from entering freely into this market to compete against goods of Canadian manufacture.

THE CHAIRMAN: Do you suggest that they be removed?

MR. DEACHMAN: I suggest that it would be extremely difficult to prevent combination in a restricted market, and that one way of eliminating any restriction of price or lateral -- one way of levelling competition is to allow all goods to sell freely in a market.

THE CHAIRMAN: I can understand that, as a theoretical proposition; but I am trying to find out whether your organization would suggest that that might be a specific method adopted to ensure competition.

MR. THOMSON: Do you mean the opening of the Canadian market to imports?

THE CHAIRMAN: You say it could be done, that that is a method by which it could be done. What is your attitude toward doing a thing of that kind?

MR. DEACHMAN: I think we have always favoured a move toward the lowering of tariff. I would like to be supported in that by some of my retailer friends, and hear them make that statement on behalf of their good selves. But I feel that is the outlook of the retailer, which differs somewhat from the outlook of some manufacturers.

THE CHAIRMAN: You might have a bit of an argument there, on that score.

MR. THOMSON: Retailing seems to be one of the few businesses with no protection, so far as I can see. The manufacturer, if he can prove his point, can get a tariff to protect him. The farmer gets protection on his products. Labour gets protection by way of unions. So far as I can see, the retailer at this particular moment does not have any form of protection. I do not say that we are asking for it, but I do say that we should have at least orderly marketing conditions within reason. We do not want an umbrella to hide under, frankly. We would like to see the market just a little more orderly and a little more fair.

MR. GERIN-LAJOIE: My question regarding your recommendation No. 4 is this: do you not believe that this particular recommendation would take off any incentive for the retailer to develop new and cheaper methods of merchandising?

MR. FORST: I think there is an answer to that question. As Mr. Thomson has pointed out earlier, the difference in the cost of merchandising certainly cannot vary too much. There are certain fixed costs, and one cannot avoid them -- taxes, rent, and a certain amount of advertising. And advertising is in ratio to sales. So if you do not advertise you do not sell; and all costs go up, too.

So there are certain fixed costs. It is true that one man might merchandise maybe 5 or 10 per cent less than the next man. There might be that variance. But in abolishing the list price, a situation has gone to the point where they have taken all the profit off, that means that somebody is using a certain item -- not to sell it as a service to the public -- but to just use that for bait or as an attraction.

If it was used on the basis of, as it has been suggested, one merchant merchandising lower than another, then I would say it would be a most reputable way of doing things, but I do not think that is the end result of what has occurred.

MR. GERIN-LAJOIE: Let us consider for a moment different methods of merchandising between one retailer and another. I have in mind methods which may not have been developed at all at the present time -- for instance, self-service in appliances. To my knowledge that does not exist.

MR. FORST: It does to a limited extent in the United States, certainly it does.

MR. GERIN-LAJOIE: I am just trying to think of an instance.

MR. FORST: It is a good point and well taken. If a merchant wishes to be more aggressive -- well, we have mentioned Mixmasters, and that

happened to be a trademarked item. But there are a dozen different mixers on the market, and I am sure a merchant would have no difficulty in getting a mixer that would give good satisfaction and good service. And if he wanted to merchandise it for less, he could do so.

In fact, I have an instance of that kind. We did it on several occasions in my own firm. If we felt that we had a list price and could not sell it at that price, that it was out of reach of most people, we got a mixer that cost less and promoted it and advertised it. It was a lower cost item, one which had a lower selling price.

MR. GERIN-LAJOIE: That is one aspect of the problem; but it is not a complete solution.

MR. FORST: Certainly if one merchant finds a lower method of merchandising, it will not be long before another merchant will find the same method, or develop some method; and the next thing you know the price is back to the same level again. And the manufacturer -- of course I am not defending the manufacturer, because that is his problem -- but I think the manufacturer, once he discovers that possibility, will soon lower his list price so that everybody can get in on the same basis.

THE CHAIRMAN: In your opinion is there some process of that kind taking place in the

appliance field?

MR. FORST: Yes, it is, to a degree

THE CHAIRMAN: And do you think that has hastened or slowed down; has it been hastened or slowed down by what is taking place since the abolition of resale price maintenance?

MR. FORST: I think the abolition of resale price maintenance up to now has mainly come out of the dealer's margin, and not out of the manufacturer's. Manufacturers' prices have not dropped in relation to retail prices.

THE CHAIRMAN: What I am thinking of is this, that we had one illustration in eastern Canada, in an eastern city, of a man who said that since the abolition of resale price maintenance he had begun to operate on the basis of a markup of about 18 per cent, instead of the more or less regular markup that had existed previously, running to about 30 per cent or 35 per cent. He told us the result was some increase in his business and, so far as we could see, no substantial change in his way of doing business.

But he pointed out that there was a very great increase in the amount of his sales. He estimated that in this year his sales would be from eight to ten times what they were prior to that change. And, instead of being in a position of loss leading, so far as he was concerned he was making more money than he did before.

He pointed out that in his view, with

regard to a great many kinds of appliances, the reputations which those appliances had obtained, and the reputations of the manufacturers for producing good, sound and standard articles, was such that the process of selling was not very difficult, and that most of the buyers were not looking for much service, because they did not think it would be needed.

He was able to operate very well on this much lower margin, and make a great deal more money than he had made before. He would not have been able to do that if everybody else had done the same thing, of course. But it does seem to indicate that if his view was right, that something of this nature was taking place, whereby due to that type of article having become so well established in the public mind, the amount of salesmanship and service formerly required was no longer necessary. Therefore a smaller margin might be sufficient for the retailer.

MR. THOMSON: Let us assume -- and you have brought this out yourself, and it seems to me very sound -- that that man is correct, and that we all went on 18 per cent. What would happen to him and all of us then? Is he not able to operate on 18 per cent only because a condition exists whereby certain others cannot; nor could they because of the fact that everybody's volume would have to go up eight to ten times to support a markup of 18 per cent. Consequently it

is quite logical that a big portion of them must go out of business, to operate on that basis. Otherwise he could not do it -- except for the fact that somebody else is operating on a higher basis.

THE CHAIRMAN: It certainly involves a higher volume of business. But if conditions are such that demonstration and selling processes for each article are considerably reduced, then you can hardly say there is justification for maintaining the same sales force and the same number of establishments to sell the same number of goods.

MR. THOMSON: Of course, over the years our costs of doing business have been reduced. We are pricing on a lower base than we used to, all the way through the piece.

THE CHAIRMAN: In bringing this matter up I am merely trying to get your opinion as to what is taking place. I have pointed out that we have had this statement made to us -- that in this man's opinion the selling of appliances already had shown some change in the whole picture; so that it was possible to operate quite successfully and practically on a lower markup than used to be the case.

And he thinks -- and I believe he was giving an honest opinion -- that the situation which exists today in the appliances field is radically different from that which existed a

number of years ago, and that a smaller margin is all that is necessary. Because it takes less time to sell and less service is required. On both of those headings, the operational costs should be down.

MR. THOMSON: The only thing is to find out how much he was making out of that in indirect financing, which did not show on the surface, and which he would not have to charge.

THE CHAIRMAN: I do not think he was doing any financing.

MR. THOMSON: All cash?

THE CHAIRMAN: Turning it over to a finance company.

MR. THOMSON: He could still have a reserve account on it, the same as we do. Then, particularly in the East, they do not pay for delivery, or anything like that. A customer comes in for an article, out of the crate.

THE CHAIRMAN: He was delivering.

MR. THOMSON: He was delivering, out of that 18 per cent?

THE CHAIRMAN: Delivering and installing, and he had one man doing service work. And if an item turned out to be sufficiently defective and seemed to require a lot of work on it, he said that he would tell the customer to send it back, and that he would either supply another or give him his money back.

MR. THOMSON: What volume category

would he be in, if you do not mind my asking. Would it be $1 million, $2 million or $3 million -- something in that order?

THE CHAIRMAN: This year, about half a million.

MR. FORST: There is no doubt about it, that he is getting business at the expense of his competitors. And his volume has stepped up in relation to his costs. Some of his costs obviously have not caught up to him yet, because I know we have been in the appliances business since 1930 and we find sometimes that we pay this year for last year's business, and so on.

If, as was pointed out a moment ago, every dealer went on the 18 per cent basis, the next thing you know the advantage of the man who has the volume goes down; and the next thing you know he and all the other dealers might very well be out of business.

There are many factors entering into it. We cannot judge from what has happened in the last eighteen months as to what would be the final outcome of this whole thing.

THE CHAIRMAN: But I am trying to get your views. This man told us the story I have told you, from his experience, as to what was happening. I would like to have your views.

MR. DEACHMAN: Did he market television?

MR. WHITELEY: Yes.

MR. DEACHMAN: What was his markup? Did

he indicate what his markups were on television?

THE CHAIRMAN: On all his appliances they ran about 18 per cent.

MR. THOMSON: About 18 per cent, across the board.

THE CHAIRMAN: It might be one or two points up or down, but that was about it.

MR. WHITELEY: He said also that he was one of the largest sellers of automatic washers in Canada.

MR. THOMSON: I would not think so, if his business was only half a million dollars.

MR. WHITELEY: He said there was about $100,000 in that one item.

MR. THOMSON: In Montreal?

MR. FAVREAU: Yes.

MR. FORST: It seems strange that markups could be lower now than they were before the war -- except for one factor, that the acceptance of certain appliances might be greater. There are many appliances that have greater acceptance. But with the one exception of that one factor, all other costs of doing business have gone up.

THE CHAIRMAN: But selling prices have gone up too, so that the percentage markup might be higher. The same percentage of profit on a higher-priced article produces more money to pay your costs.

MR. FORST: Much of your business is based upon the percentage of your selling.

Because you figure your rental is usually on that basis, and you figure your advertising, and you figure your salesmen's costs, or the salaries, on a percentage. Even your buyers work on a percentage of business done. So that much of your percentage is taken up by cost of doing business.

But it seems funny to me that now, with all costs increasing -- delivery costs have increased and service costs have increased. Every factor in business has increased; and yet, there seems to be a tendency to decrease the margin of profit. It does not make too much sense. What was wrong with it before the war? I think some of us were pretty competitive before the war.

MR. WHITELEY: But of course your volume is very much higher today.

MR. FORST: I wonder if it is much higher in ratio to your efforts to get that volume.

THE CHAIRMAN: That is just what this man said, that that was the case -- that he has much more volume in proportion to the effort used than he had formerly -- less service and less sales talk. He said, "I do not waste my time telling people what they already know. And there are still a lot of salesmen who do that." That is the way he put it.

MR. DEACHMAN: In other words, he is able to capitalize on the fact that his goods have been presold, is that right? The selling cost has been absorbed in latter years by other parties, to

some extent, in that when the housewife goes out to buy a Mixmaster she knows exactly in her mind what the Mixmaster is, and she is desirous to have that particular article.

She has examined it and felt it, and probably she has operated one. She knows what she is buying, just as well as she knows what she is buying when she buys an orange. And so it is not hard for her, at all -- if she has the money and wants to spend it -- to walk into a store; and it is not hard for him to sell it to her.

In other words, part of his selling cost is already absorbed by the manufacturer and by the other retailers.

THE CHAIRMAN: The marketability of the thing has been established, yes. He made that quite clear. In his view most of the standard manufacturers of electrical appliances had achieved reputations over many years for producing good, sound, standard products. All you had to do was to mention that the product was made by so and so, or so and so, or so and so, and people were satisfied that it was a good article.

MR. DEACHMAN: What about new products? Did he handle those?

THE CHAIRMAN: He does sell automatic washers on a big scale, yes.

MR. GERIN-LAJOIE: He said that even new articles were advertised nationally by the manufacturers themselves.

MR. DEACHMAN: Yes, they are. The mere name itself presold the article.

MR. THOMSON: Just try that on a dish-washer!

THE CHAIRMAN: In his view the reputation of the manufacturer had a great deal to do with pre-selling to the public.

MR. FORST: Say, for example, that this man's business is probably trebled or multiplied several times, his overhead obviously has not gone up in ratio -- which is a fine thing to achieve in business, if you can.

THE CHAIRMAN: I think that is true; it has not gone up in ratio.

MR. FORST: Right away others will try and attempt to do the same thing in the same area. The next thing you know his volume will go down, back to where it was before when he was making a considerably higher margin of profit. And he will be making only the same margin that he is making now. What is going to happen to him? In other words, his costs remain the same as they are now, or pretty close to it -- because there are certain fixed costs he can not eliminate. So it is only a matter of time until somebody catches up with him.

THE CHAIRMAN: He may be able to operate pretty efficiently; and if he can do the volume he is doing, with the staff he has now, he is a smart operator.

MR. FORST: If he gets half a million now, and gets about $150,000 -- which could very well happen -- and his fixed costs remain the same, then I am afraid he will not be making much money, or remain in business very long. That certainly happened before the war. As soon as the dealer tried to reduce his gross from a minimum -- and it certainly was higher than 18 per cent -- on items such as major appliances, he soon found himself out of business.

THE CHAIRMAN: It is merely a question of whether the process has gone on with regard to a large number of these appliances so that, in the public mind, they are largely presold, and the retailer does not have as much to do to make a sale as he had formerly. If that is so, there is justification for expecting a smaller markup, because the retailer does not have to spend so much time in making a sale. And he can do other things in the same time.

MR. THOMSON: Was he the lowest cost operator you had before you -- with a cost of 18 per cent?

THE CHAIRMAN: I would not say that, offhand.

MR. THOMSON: I am just curious as to what the costs were running, approximately.

THE CHAIRMAN: I do not recall specifically as to that, with regard to some of them, at all. But I do know that they fluctuated up and

down, considerably.

MR. FORST: I do not think we would have to worry too much about the manufacturer setting up his list price too high, or enforcing a too-high list price. I am afraid the manufacturer is the first one in the matter of business to start cutting the margin of profit, once he feels that the dealer is going to get by and pay his bills.

I do not think he is too much concerned about how well the dealer lives. He is only concerned about moving his goods.

THE CHAIRMAN: He wants the dealer to live.

MR. FORST: Yes -- he wants him to live, to be sure. But he feels that so long as he can get by, he is satisfied. And I think the manufacturers' list prices will not be too high, at least, the manufacturer will not maintain them too high, provided the dealer can work on a lower margin.

THE CHAIRMAN: He will not enforce them.

MR. FORST: He did not before the war.

THE CHAIRMAN: You are not suggesting a complete repeal of the legislation as passed, But you are suggesting that the manufacturer should be able to make vertical arrangements to stabilize prices. Well, does that not involve pretty well fixing list prices?

MR. THOMSON: It is another word for it, I would say.

THE CHAIRMAN: It is quite like it, to me. But if he is not going to enforce it, what is the use of it?

MR. THOMSON: The only thing is that the retailer then can handle a line of merchandise of a manufacturer -- and some of them will enforce their position. In other words, one manufacturer may choose to enforce his and another may not. The dealer then has his choice. He can decide to go on the cut price operation of one manufacturer's theory, or he can operate on the fixed list of another.

At least he is not, after spending a lot of time and money in advertising and merchandising a given line over a period of time, having that cut out from under him by somebody else who wishes to spoil that particular position, competitive position, he has in the country.

In other words, he can choose which side he wishes to play on, and go along with that. And, in addition to that, as Mr. Forst has said, they will not give you too much of a markup. There is not a manufacturer who would begin to be interested in operating on the net profit of any retailer in the city of Vancouver. You can read that in any financial paper any day of the week. The products of General Electric, Westinghouse and General Motors, and all the rest of them -- their net on sales would make us look like a bunch of hams. Because they make a net profit that any of the

rest of us would be very very happy to do. They will never allow us enough to make as much as they make; of that I am sure.

THE CHAIRMAN: Do you mean on each article?

MR. THOMSON: Percentagewise, on their dollar sales. G. E. in the United States last year were something like 9 per cent or 10 per cent, and when they get down to about 6 per cent, after taxes, they start to cry. Well, there is not a department store in the United States that has been able to operate on that basis -- or a chain store, or a retailer, to my knowledge. But that is what the manufacturer does. So I do not think he will ever allow us enough profit to do what he is able to do himself, frankly.

THE CHAIRMAN: It may be that the manufacturer's sales, in proportion to his capital investment, may be higher than it is in the case of some dealers, anyway.

HIS THOMSON: His financial statement looks nice when you read it.

THE CHAIRMAN: That is not the way they talk to us.

MR. THOMSON: I realize that; but I read their statements.

MR. FORST: Thinking of this operator, on a basis of 18 per cent, I feel that the consumer, as well as everybody else interested in the matter of marketing -- and we are all in it together --

feels that the thing that he buys should have a certain stability, particularly when he is buying an item such as a refrigerator or automatic washer or television set. They feel there should be stability.

If I was a consumer I would be after stability there, as well as after it as a dealer. One dealer says, "I can operate at 15 per cent", and the next day Jones comes along and says, "I can operate at 15 per cent" -- and next day the price comes down. The consumer has just bought at a considerably higher price, but next day he finds that the price is lower.

Even this dealer who thinks he is doing a good job for his consumer and for himself, is not doing a good job in anybody's eyes next day, because somebody else is already lower than he is. But this dealer might very well not be able to operate lower. He might just do it, knowing that this one particular dealer is operating at this price. He might have some way of operating for less, or he might not even operate for less at all. He might even be going out of business. But he could ruin that other dealer who is doing so well at 18 per cent.

In other words, there seems to be somewhere along the line where there should be some protection, because now the consumer has no protection, the retailer has no protection, and the manufacturer has no protection.

THE CHAIRMAN: I am just a little bit confused by part of that argument which seems to be this, that the consumer who buys from the man working on 18 per cent markup instead of the regular markup of 30 per cent is quite annoyed over that fact, because somebody else may offer a cut, may offer goods at 15 per cent markup the next day. He would sooner have paid 30 per cent markup than the 18 per cent he did pay. That does not sound just right to me.

MR. FORST: I am inclined to agree there -- the consumer should buy at the lowest possible price.

THE CHAIRMAN: He feels happier when he does; he feels happier when he gets the lowest price.

Perhaps this would be a good place to have a recess.

--- Recess.

--- Upon resuming.

THE CHAIRMAN: You may proceed, Mr. Gerin-Lajoie.

MR. GERIN-LAJOIE: You talk about the number of outlets at present as a possible cause of any chaos one might find in business. I have here a quotation from Mr. K. C. Johnson Davis' book, Control in Retail Industry, published in 1945 in Great Britain. He says -- and I would like to know your opinion, as to whether you agree with his view of the problem ---

> The object of a price maintenance policy is to ensure to the distributive side of an industry a measure of freedom from the uneconomic competition, so that distributors and dealers are enabled to retain a reasonable profit on their sales, and so keep free from prejudice the distribution, display, sale and service of their respective manufacturers' products.

And then, later on:

> Profit margins, adequate at present when no longer seriously prejudiced by price cutting, may easily lose their virtue as a source of livelihood when volume is whittled away between over-abundant dealers. Increased margins offer no solution for they merely germinate a similarly destructive cycle of reaction.

And then, in conclusion he says:

> The control of numbers in the trade is the crux of the long-run aspect of price and profit protection, and therefore demands the attention of all trade associations.

And later on:

> It follows, therefore, that some form of limitation is to be advocated

whereby control may be exercised on those seeking to enter the retail side of an industry.

Would you agree that one of the problems now is not only, and perhaps not mainly, price control -- resale price maintenance -- but the control of the number of retail outlets, and that there should be possibly, if a remedy is needed to the problem you expose in your brief, that remedy might be found in the control of the number of outlets?

MR. DEACHMAN: I think, sir, that the number of outlets controls itself on the basis of efficiency to operate in competition. I think the Financial Post survey, to which we made reference this morning, indicates what controls the number of outlets, and exactly how that is done. Eighty-five per cent of those who entered the retail field and other fields failed because they were incompetent to operate in those fields; and it was very quickly determined, at no one's expense but their own, as to whether they were capable of operating and serving the public.

MR. GERIN-LAJOIE: Is it not possible that the control of the number of outlets is self-controlled, if I may use that word again -- as long as you have a control of prices at the retail level? But if you did not have that control of prices there might be a different

situation. And if you want to remedy the present chaos, as you call it, and if there is need for a control, then is it your view that it should be made only from the standpoint of price, and not from that of the number of outlets? I do not know whether I am right in this, but it would seem to me that one is apparently the complement of the other. I do not know if you would agree with me on this, but possibly the margin of profit per unit might be smaller, having a larger volume, if you have a smaller number.

MR. DEACHMAN: No, I do not. I cannot see how arbitrarily limiting the number of outlets by some form of licensing or legislation or examination to determine efficiency is going to provide more opportunities to select a better form of retailer, or provide a better service to the consumer.

Let me give a couple of examples. The Steinberg boys were one happy family, with their mother, operating a poor corner grocery store. Let us suppose that the Steinbergs had flunked on their retail examination; where would we be in the advancement of supermarkets today, if that had happened?

And if Einstein had been prevented from practising mathematics simply because he flunked, in his youth, an examination in mathematics -- as he did -- where would the theory of relativity be today?

In other words, you have to allow people to exercise their own wills in these matters, and to survive or to fall, if they wish.

THE CHAIRMAN: In a matter of entering business you think they should be allowed to make their own mistakes?

MR. DEACHMAN: Yes, I think they should be allowed to make their own mistakes.

THE CHAIRMAN: But you do not go that far with regard to prices, altogether?

MR. DEACHMAN: Well now, in regard to prices, I think they should be allowed to make their own mistakes and make their own arrangements. We ask merely that we be left alone to make our own arrangements, provided they are made in a free and openly competitive market.

I think prices will then find their own proper level. A moment ago Mr. Gerin-Lajoie brought up the matter of self-service in connection with appliances -- which might bring the rates down considerably in some cases. After pre-selling has taken place in perhaps a price maintained market to the point where there is a general acceptance on, let us say, a polisher or an ironer, or whatever it may be, then undoubtedly those will enter the field in some other form, except in the highly specialized form of selling those, face to face with a good salesman who knows every nut and bolt of them,

until the public has gained acceptance of them.

I do not think any manufacturer would be able to maintain or to hold the price of that article, or to hold the form in which it would be retailed. It is bound in time to have established itself on such a basis, when it is as well known as an orange or an apple. And when it has gained that state of acceptance, it is open for self-service. The thing that made self-service possible was, first of all, years and years of establishing the reliability of certain branded lines in the food business.

THE CHAIRMAN: Yes, and then packaging.

MR. DEACHMAN: Yes, packaging -- cornflakes, and packaged goods of all kinds. Things had to be sold. In the old days you judged oatmeal by the number of weevils you could find it it. The only way you could sell oatmeal was by having the housewife convinced, by means of a face-to-face argument, and letting her sift it through her hands, and convincing her that you had fewer weevils in your oatmeal than the next retailer had. Now she knows that she can pick that box of oatmeal off the shelf, and she will not find a weevil in a whole bin -- in a year's buying of oatmeal. Consequently, self-service is possible at a much lower cost.

MR. GERIN-LAJOIE: But does that not show that, let us say, self-service in the

appliance business would have to be started with nationally advertised brands?

MR. DEACHMAN: The ones in which a thorough pre-selling job had already been done, yes.

MR. GERIN-LAJOIE: And how would that be possible with prices maintained by the manufacturer?

MR. DEACHMAN: By maintaining prices -- I think what you are attempting to impute is that the price will be maintained at, let us say, full service level at all times. I do not think any of those who advocate price maintenance advocate that that would be possible.

Eventually, once those are well established, they are certainly going to have to move to lower levels of price. And the thing that will set those lower levels of price will be high competition from what are commonly called kicker lines. Is that not so?

MR. THOMSON: Yes.

MR. GERIN-LAJOIE: Let us take the case of the Mixmaster again -- and we have used it before as an example -- at $59. Now, if it sells for $59 at your place, and at Eaton's and at the Hudson Bay Company, why would anybody buy it at a self-service store? One would expect to buy it at a cheaper price, I should imagine, at the self-service. So where would be the incentive? That is the question I am asking -- and I am not

expressing any opinion. Where would the incentive be to develop self-service, if retail prices are maintained by the manufacturer? In such a store of course you would have lesser service than you have in one of your stores, let us say.

MR. THOMSON: Another thing that enters into this picture -- again taking the Mixmaster for the sake of argument -- is that it is practically the same from year to year. But I would point out that on most articles, such as refrigerators, ranges and the like, there are new yearly models with completely new features coming out all the time. And you would not sell them on a self-service basis, unless somebody was selling them without self-service, to point out what these things were. In other words, somebody must bear that cost.

MR. GERIN-LAJOIE: Is that not now done by the manufacturer in his advertising in the newspapers and on large signs and on the radio, and so on?

MR. DEACHMAN: No.

MR. THOMSON: No. They do not go into those details -- to sell a woman with respect to those different features of the article.

THE CHAIRMAN: They do very well on television, do they not?

MR. THOMSON: They do a pretty good job, sometimes an excellent job, on television.

But what I am referring to is that somebody must sell those features when they are new. Let us say, for instance, in connection with an automatic washer, the Duomatic, which sells at $679. Someone has to point out the difference between it and the two separate units. Once someone has done all that, and presold the woman who wants to buy one, then she can walk down to the cut-rate place, who does not maintain this service in his store, and knows nothing about the article, and cash in on somebody else's selling.

But it is not quite the same as if you left it in the carton and said, "Madam, do you want a Duomatic?" And she will say, "What is that?" You will say, "It is right in this box. You can have it. Just bring a truck up and take it away, for $679 -- just so long as I don't have to uncrate it and show it to you."

MR. GERIN-LAJOIE: But the Commission has been told by some people -- and we are asking if you agree or not -- that advertisements nationally made by manufacturers look after that point.

MR. THOMSON: I do not agree.

MR. DEACHMAN: Here is the opinion of one national manufacturer as to what has to be done in order to establish the sale of an appliance. This is the marketing history of the G. E. floor polisher, taken from their own brief,

to which we referred a moment ago. It says:

> We found back in the twenties someone had come up with the idea of building a domestic floor polisher.

And then he goes on to describe it. Then it says:

> We secured one machine of this type, and our preliminary tests indicated that it did do a good job. We purchased nineteen polishers of three different makes and over a period of two years we loaned these polishers to over 200 people to use in their own homes. Each person after trying out the polisher was asked to complete a questionnaire.

And then he goes on to set out the questionnaire, and the form in which it was asked -- as to the shortcomings of the polisher, and how they developed various stages, and finally arrived at a price which was suggested to them by the dozens of people with whom they had dealt in this questionnaire. Finally they worked out a polisher.

> A decision was reached to go ahead and the objective would be equal to several times the maximum rate at which floor polishers had ever been sold previously.

This was a bold step.

It is a fact well known to marketing men, but not generally appreciated by others, that people do not beat a path to the door of a manufacturer who builds a new kind of product that no one knows about. Man is a creature of habit, and generally resists new ideas and new things which he later comes to value very highly.

MR. WHITELEY: This is all the manufacturer's activities you are speaking about.

MR. DEACHMAN: Yes, but what we are pointing out is that the mere fact of building a better mousetrap does not mean that the world will beat a path to your door.

MR. WHITELY: No, but the questions were not directed to any lessening of the manufacturer's activities.

MR. DEACHMAN: But a big selling job must be done by the retailer before that article is sold.

MR. WHITELEY: Yes, but the illustrations you were giving were all directed to the manufacturer's efforts.

MR. FORST: I would like to elaborate upon that point. I think there is a presumption prevailing today that people are sold on everything that might be available to them, in other words, sold on electric ranges. In this area we have a lot of coal and wood ranges which are still

being used, and we have oil. And they are sold -- and automatic washing machines. But it is surprising how many impulse sales are made, sales which have to be made. People do not just come in and say, "I want this, please". They do not just say, "Wrap it up". They do not even say, "What is it?" You get hold of the customer and you interview him, or you get hold of him by talking to him at his home or at her home -- or if they are in the larger stores, or going through a department, the salesman will talk to them.

There is a lot of selling could be done -- I don't care how much an item has been advertised nationally, and so on. It is not just a matter of taking a thing off the counter. You have been referring to table appliances such as the Mixmaster -- although today they are pretty well sold, still I would say there is a lot of selling has to be done in connection with them.

And I think one of the things the manufacturers are concerned with right now is that there is no selling being done, because there is no profit in it. Therefore eventually sales are going to fall off. There has to be selling done, and if you do not sell a customer does not buy. They soon find something else that somebody else is selling.

MR. GERIN-LAJOIE: On that point, the Commission has been told that the sales of

Mixmasters has been going up in the last year.

MR. THOMSON: The Mixmaster western representative told me they were down in British Columbia.

MR. GERIN-LAJOIE: But on the national at the manufacturer's level they are up.

MR. FAVREAU: The over-all figure has gone up.

MR. FORST: That might be the temporary picture, but I do not think it will last. There may be a new product which will replace the Mixmaster next year -- and who will sell that, unless there is something in it?

MR. GERIN-LAJOIE: The question is as to how new methods of merchandising will develop if we have resale price maintenance. Is it your belief that we will have the same incentive to develop at the retail level any new methods of merchandising?

MR. FORST: I think there will be. I think there are lots of ways of getting around the matter of maintenance.

THE CHAIRMAN: But that is not maintaining prices.

MR. FORST: I mean it this way. If, for instance, the Sunbeam Mixmaster is too high in price, and another manufacturer turns out one at a lower price, and comparable quality -- and it could very well be that the other is higher -- then the smart merchandiser, who can merchandise

for less, will buy the other item and sell it for less. He might take a smaller margin of profit and buy for less. The other article might have no list price, or it might have a lower list price.

But it seems to me if a manufacturer wants to set his own list price, it is his product; he has manufactured it, and he feels that it is worth the price that he has set on it. That is his problem. He is not the only manufacturer in the field.

THE CHAIRMAN: The sort of thing that Mr. Gerin-Lajoie is getting at is this -- and let us put it this way -- let us say that there is a self-service operator who might be interested in putting one of these appliances on his shelves for self-service selling. Let us say that it is a Mixmaster, which is well sold to the public now.

If the Sunbeam Corporation maintains the price of the Mixmaster at a certain definite level, will the self-service operator be interested at all in putting it on his shelves when he has to charge the same price as the other man who has salesmen and who are pressing sales, and people who demonstrate, and all that sort of thing?

MR. FORST: He might not, but he might find another product which is every bit as good, at a lower price.

THE CHAIRMAN: If he could find as good a product at a lower price, he would not have much trouble selling it, and neither would anybody else. The other stores would also be selling it. But you are not getting the necessary advantage of the self-service method as compared with the ordinary retailing method.

MR. FAVREAU: On that piece of equipment.

MR. FORST: On that piece of equipment.

THE CHAIRMAN: I am not saying that that is what ought to happen with regard to a Mixmaster or any other appliance. But if you reach a stage in which that is the feasible method of merchandising in that product, if you have maintained prices it is difficult to see how that method could be used. We are trying to get at your view as to how it might be made to operate on those goods.

MR. DEACHMAN: Mr. Chairman, the Mixmaster Corporation, and its sales people and its whole chain of distribution in an economy in which, let us say, in the United States, in its fair trade states, now is able to set its own price on the marketing of those Mixmasters -- at the same time it is exposed to competition with every other manufacturer of mixers who may or may not brand their lines.

Now, if the idea of owning a Mixmaster

becomes so thoroughly established in people's minds that they desire to have a Mixmaster, or desire to have a mixer of that kind, then the problem of selling a mixer of that kind is not too difficult. And it is not very long before either a major department store or a chain, or a food chain, or some other stores will come to the manufacturer and say, "Make us something that approximates this one. We will sell it self-service, or under-cut it, or put it on the market at a price where those who are interested in price will buy it."

And Mixmaster, if faced with large losses of sales from their particular brand to these other brands, or unbranded mixers, are going to have to adjust their price. And so competition forces them to readjust their price-
3) maintained price.

What we say is that it is the privilege of the manufacturer and his line of distributors, whom he has organized, to determine what they can sell that at, and to go out and face competition. And in the face of competition they will have to decide whether or not they can maintain it.

The person who is going to make the final decision is the housewife. She in the first instance is sold on the idea of buying that Mixmaster, which she considers is a good-looking product and something she wants, and something she can afford at that price. But it is not too

long before somebody else comes along and says, "We can do the same thing. We can give it to you for less. We can sell it on a cheaper method, by self-service. You know what this product is. You have seen it in operation for a long time. Here it is at 20 per cent less than this one which is called a Mixmaster."

THE CHAIRMAN: You would have a lower price, you suggest?

MR. DEACHMAN: Yes, and they would either ---

THE CHAIRMAN: But would you have the same price in the ordinary retail store as you would have in the self-service store?

MR. DEACHMAN: For that Mixmaster?

THE CHAIRMAN: Yes.

MR. DEACHMAN: It would have to come down then, because Mixmaster would not be able to sell at one price in one store and at another price in another store. They would not be able to do that.

THE CHAIRMAN: But would the ordinary retail store be able to carry on on that basis? Because the argument presented to us is that there is need for a much higher markup in order to operate.

MR. DEACHMAN: There are all sorts of items which have moved out of the hands of the retail stores into the hands of the self-service stores, some of which have disappeared entirely.

Tobacco is a case in point. In the city of Seattle one chain of tobacco stores there, which had twenty-five or twenty-eight stores three years ago, have now only five. It is a form of retailing which is disappearing. Several forms of retailing are disappearing -- and we are not arguing for the preservation of ancient forms of retailing.

THE CHAIRMAN: It might mean that where an article ceases to require the service of an ordinary retailer, it would be handled in a self-service establishment. And if the other retailer wished to continue to handle it, it would merely be to have it on his shelves for the convenience of his customers.

MR. FORST: I have an example in my own firm of how to beat resale prices, if you wish to. Before the war, when General Electric and Westinghouse washing machines, and other nationally known brands, were selling at a certain price, we decided that we were -- just as you said a moment ago -- not competitive. What was the point of our handling them? Our location was less desirable than most firms of a similar type.

And so, for survival, we had to think of something else. So we bought a washing machine that was less nationally advertised. In quality I maintain it was the same, or even better.

THE CHAIRMAN: It was not made by the same company, was it?

MR. FORST: No, it was not made by the same company. Nevertheless it was good, and it was a comparable product. We sold it for less money. Any consumer who wished to buy our particular washing machine could buy it -- and there were other firms of a similar type to ours. They could buy that washer. The customer got good value. But it still does not say that the national advertiser was eliminated. He still had his washing machine, and he figures because he had spent money on it to advertise it nationally that he should get more for it -- and so did his dealer.

But there was free competition, and plenty of it. The only reason was that we felt we had to have one advantage, and we would create our own demand for our own product. And many merchants are doing that today. It seems
34) to me that there is a very competitive basis.

THE CHAIRMAN: It was rather expensive for you, was it not?

MR. FORST: We made a go of it all right, and so did the nationally known manufacturers and their dealers. I see nothing wrong with that type of competition.

THE CHAIRMAN: Neither do I.

MR. FORST: I might say that in that same paper there, the large department store of Hudson's in Detroit, took many nationally known lines such as Sunbeam irons and toasters and cut the price, in self defence, because they were

meeting these cut-price stores in the Detroit area. Now, these manufacturers might very well say to Hudson's tomorrow that they will not sell them any more. But I doubt whether they will. Nevertheless the manufacturer has that privilege. We are not defending that manufacturer; but we think somewhere down the line there should be some control over the situation.

This store has decided to cut these prices on these nationally known products. If the manufacturer does not wish to do business with them any more, that is up to them.

THE CHAIRMAN: There is one question in that regard I would like to ask. The traffic appliances of some manufacturers are not sold direct to the retailer by the manufacturer, but always through jobbers.

MR. FORST: Yes, most of them are.

THE CHAIRMAN: Many of your retailers buy from a number of jobbers, and I think that is particularly true of those who are doing a fairly large volume of business on a cut-rate basis. How is the manufacturer going to apply resale price maintenance to him? He does not sell direct to him. He can only cut him off through his supplier; and he cannot tell which supplier -- cannot tell very readily -- is letting him have them.

MR. FORST: I do not think he can control it.

THE CHAIRMAN: Resale price maintenance

would not work in that case at all?

MR. FORST: It does not work in the United States.

THE CHAIRMAN: That was my next question.

MR. FORST: But at least there is some control of the situation; and here there is not any.

MR. THOMSON: In addition to that, there is a place where some water could be squeezed out of prices. Why is it necessary for General Electric to have five distributors here, besides themselves? Why do they not reduce the price to the consumer by eliminating a lot of the duplication they have set up themselves?

THE CHAIRMAN: Well, that is a problem we are not investigating.

MR. THOMSON: That is another trend that our friend has been talking about, that can develop.

MR. WHITELEY: Are there any indications that the manufacturer is likely to take a more active part in local demonstrations? In other words, are any of them setting up showrooms in connection with their wholesale distribution?

MR. THOMSON: Quite a few have showrooms of their own, but they do not put them on for the public to go down. You, as a dealer, could take a consumer down there to see them. But it would not be set up for the public to go in, generally.

However, there have been rumours that some of the national advertisers will open at the retail level in order to distribute their own appliances, because they have been kicked around so much. But whether that is a fact or not, whether it is talk or not, I cannot say.

MR. WHITELEY: Is it true that in the plumbing field, for example, wholesale distributors have maintained displays that the consumer may look at before making a choice?

MR. THOMSON: I believe they do. Most of the plumbers do not have much opportunity to display.

MR. WHITELEY: I was wondering whether any such tendency was even hinted at in, let us say, the appliances field.

MR. THOMSON: You could not get volume on that basis. Most plumbers that operate are just one or two-man operations. They will be repairing a man's sink, and will be talking about something, and they will take him down to the wholesale to see it.

In other words, they do not merchandise that type of thing themselves, or display it. It is just trying to sell it, when perhaps they are fixing a new washer on a tap, or something like that. It is a different type of business altogether.

THE CHAIRMAN: Then, does any other member of the delegation wish to make any further

comment or observations before we terminate this sitting? I think we have completed all the questions we wished to ask.

MR. FORST: There is only one possibility -- and I think you asked a question on this point -- but it could happen. It could eventually force prices up rather than down -- and it has gone on for years -- and that is that the manufacturer could become fed up with the situation as it is -- and I think some of them are -- and he could very well set up his own retail outlets. Then, obviously, they could then control their prices very easily because it would be their own outlets.

Take one example of the vacuum cleaner mentioned earlier. Electrolux Vacuum Cleaner Company control their price, because they manufacture them and sell them and service them. They are one of the highest priced vacuum cleaners on the market, incidentally. I do not know whether they are any better or not, they could be. Nevertheless, that could be a tendency, due to the present condition in the appliances field.

And, instead of decreasing the cost to the consumer -- and I think most of our discussion has been on that phase of the matter, whether in the long run the consumer would be better off -- that phase could very well develop. And under it of course there would be very few retailers. In

fact, there might not be any.

THE CHAIRMAN: The retailer would be merely a branch of the manufacturer.

MR. FORST: Yes, or a subsidiary, or direct operations.

THE CHAIRMAN: It might be argued that if Electrolux operate in that fashion, at a very high price, any other manufacturer of a comparable product, whose goods are handled on a basis that permits of a substantially lower retail price, would be pretty stiff competition for them, and might force Electrolux to come down.

MR. FORST: Yes, but they have not done so yet. It does not matter whether a dealer is a separate unit from the manufacturer -- you will not sell an item if it is priced out of the market, or priced too high for competition.

THE CHAIRMAN: I was just raising that because you could not say which way the cat is going to jump in that respect.

MR. FORST: That is right.

THE CHAIRMAN: That completes the actual hearing for today. Then, of course, Mr. Deachman is free to submit further comments or further factual information if he should desire to do so on behalf of the association or, if the association so instructs him, at any time while the inquiry is going on.

At this stage I would like to say that we do appreciate not only the attendance of you

gentlemen here today, but also the very careful and thoughtful way in which your brief has been prepared and presented. We are also grateful to you for the very frank and fair discussion we have had during the course of the hearing both this morning and this afternoon. We can only hope to arrive at some kind of reasonable conclusion if we get the facts and a fair presentation by way of argument on both sides. Because we do get both sides.

Thank you again for your attendance.

MR. DEACHMAN: Thank you, sir.

--- Whereupon the hearing was adjourned on Monday, July 5 to Tuesday, July 6, 1954 at 10 a.m.

Canada

RESTRICTIVE TRADE PRACTICES COMMISSION

LOSS-LEADER SELLING

TRANSCRIPT OF EVIDENCE

Vol. 16

VANCOUVER

JUL 6 1954

C-O-N-T-E-N-T-S

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VANCOUVER SITTING
(Second Day)

(No exhibits filed this day)

RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

an inquiry

Regarding Loss Leader Selling

--o--

Hearing held (in public) in Room 414, The Court House, Vancouver, British Columbia, July 6, 1954.

--o--

PRESENT:

C. Rhodes Smith, Q.C.,M.A.,LL.B.,B.C.L.	Chairman
Guy Favreau, Q.C.,B.A.,LL.B.	Member
A. S. Whiteley, B.A.,M.A.	Member

--o--

APPEARANCES:

Mr. Paul Gerin-Lajoie	Counsel for the Commission
Mr. R. M. Davidson	Secretary to the Commission

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REPRESENTATIONS:

Canada Safeway Limited

J. A. MacAulay, Q.C., D. C. McGavin	Counsel
J. Kraft	Divisional Manager
Hugh Crawford	Zone Manager, Vancouver
Eric Brackman	Advertising Manager, and Price Maker

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THE CHAIRMAN: This morning I understand we are to have a brief from and on behalf of Safeway.

MR. MacAULAY: Yes, I appear for Canada Safeway Limited, Mr. Chairman, and gentlemen of the Commission. I am Canadian counsel of the company and also Vice-President of the company. For Mr. Favreau and Mr. Whiteley I might say that my name is spelled M-a-c-A-u-l-a-y. And I will not tell you, Mr. Chairman, how I spell it.

THE CHAIRMAN: Well, in thirty odd years, if I did not know, I would never learn.

MR. MacAULAY: Then, I have here also Mr. D. C. McGavin of Winnipeg, my partner. Then, on my left is Mr. W. J. Kraft, who is divisional manager of the company. Safeway operates in Canada with two divisions, one division covering its operations in British Columbia and Alberta -- and that is the division of which Mr. Kraft is the manager. The other division is Manitoba, Saskatchewan and Ontario. We just operate from the head of the lakes, west.

Then, Mr. W. J. McCann of Winnipeg is the divisional manager of that company. Sitting to the right of Mr. McGavin this morning is Mr. Hugh Crawford, who is the zone manager of the company, for the Vancouver zone. Then, I have behind me Mr. Eric Brackman, who is the advertising manager and price maker.

I think these gentlemen will be able to

answer any questions you may wish to ask after the brief has been subumitted. It was not our intention to submit a brief, as very complete information was requested from us by the Director of Investigation and Research. However, it was later indicated to us that we might be of some assistance to the Commission if we did present a brief.

Furthermore, we received a letter from the Secretary under date May 17, 1954 suggesting that the Commission would like to have answers to five questions during the hearings in Vancouver. And on the basis that we might be of assistance to the Commission, and in order to answer those five questions, that is essentially why we are here. I might say that the questions that were asked are questions to which quick answers cannot be given.

THE CHAIRMAN: That is why they were asked.

MR. MacAULAY: That accounts for the length of the brief. I would prefer, if I might, to refer just to some portions of the brief as I present it, rather than read it in toto, in order to save time -- because it is a quite lengthy brief. I should like also to make some observations as I proceed in the presentation of it.

THE CHAIRMAN: In view of the length of the brief, it might not be necessary to read

it all, as has been done in most of the other cases. But if in the course of your discussion you let us have all the essential features of it, that would be satisfactory.

MR. MacAULAY: I shall try to do that. It is as follows:

Why Safeway is Appearing Before Commission

> Canada Safeway Limited welcomes this opportunity to respond to the invitation of the Restrictive Trade Practices Commission and to submit its views on various matters under consideration in this inquiry.
>
> The Director of Investigation and Research under the Combines Investigation Act has stated the reason for this inquiry as follows:

And you gentlemen are all familiar with the reason for the inquiry, so I shall not read that portion of the brief. The brief continues:

> The Commission through its Secretary has invited Canada Safeway Limited (hereinafter for convenience called Safeway) to submit, among other things, its views regarding
>
> (a) the establishment (presumably by law) of a uniform markup for all or most grocery products;
>
> (b) the extension to this field of resale price maintenance, also presumably by law.

(c) legislation of minimum markups.

Whether any of these measures actually would be effective in eliminating the almost non-existent amount of loss leadering that exists in grocery retailing in western Canada today is questionable. But this we do know -- their effects could go far beyond the subject of loss leadering and would have the general effect of raising food prices to the consumer while at the same time reducing the benefits to farmers.

And as I proceed I shall elaborate on the benefits to farmers, because both in Canada and the United States Safeway endeavours to co-operate with the farmers in the marketing of their products. And if they have a surplus either here or in the United States, on many occasions they have called for our assistance, and we have put on a special campaign in order to help them dispose of that surplus. Then, to continue:

Safeway wishes to say at the outset that it is opposed to any laws that will raise food prices by requiring grocery retailers to take larger profits.

Scope of Safeway Operations

Safeway operates retail meat and grocery stores and related facilities in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, and in western Ontario. At the end of 1953, the company

operated 139 retail stores and on that date it also had five retail locations under construction.

MR. FAVREAU: Are they completed now?

MR. MacAULAY: No. These supermarkets you build take quite a long time to build.

MR. FAVREAU: I do not want to rush you.

MR. MacAULAY: We are trying to rush ourselves in that respect. The sooner we get them completed, the better it will suit us. And then, to continue with the brief.

Basic Pricing Policies Followed by Safeway

Safeway's basic principle of operation is to sell a large volume of merchandise with a low profit on each unit sold. Distribution without waste is our slogan. Safeway constantly passes on to customers the benefits of its ever-increasing efficiency.

As part of the basic program of reducing its cost of distribution, it has long been company policy to operate all stores under a cash and carry plan. No credit is extended to customers (except in certain minor instances) and no deliveries are made to homes, and no telephone orders are taken by the stores.

We say that no credit is extended, except in certain minor instances. We did extend a little credit in one district about fifteen years ago, in

the province of Alberta. The only credit extended, of which I am aware, is that given to charitable organizations or to sawmills which, at Christmas time, may want to give turkeys to their help. They deliver the orders to us, and then we turn in those orders at a later date -- possibly the following month. But that is the extent of the credit, of which I am aware. It may be said that we operate strictly on a cash-and-carry basis.

THE CHAIRMAN: You do not get any bad debts in that way?

MR. MacAULAY: We do not have any bad debts, no. Then:

> The company's pricing policy is based upon recognition of four fundamental factors and the necessity of keeping these factors in balance. Safeway policies are a matter of public record and are set forth in a publication entitled "Safeway Policies" which has been widely distributed to interested groups. These four principal pricing policies are:
>
> 1. Give consumers the benefit of savings resulting from the Safeway method of doing business by pricing at the lowest point that will yield a reasonable profit. This would be the sole element of policy if there were no conditions which made modifications necessary. Because competitors

may seek to mislead consumers with "loss leaders", the company must prevent such practices from permanently injuring its competitive position and endangering the confidence which its customers have in its price structure. Therefore, it also is company policy to:

2. Meet the lowest price of every competitor, item by item, day by day and town by town. Each town or marketing area is considered as a separate pricing problem and is studied individually to determine what competitive prices must be met. This policy specifically provides for meeting the competitor's price and not leading it, which reflects another element of company policy, namely, to:

3. Observe both the letter and spirit of laws making it illegal to commit any act or cut any price "with intent to injure or destroy competition."

4. Maintain a reasonable -- at least 15 per cent -- markup over landed warehouse cost on all fresh fruits and vegetables except in cases where it is necessary to meet competition or move distressed merchandise.

Written company policy further specifies that prices shall not be reduced below

(a) the legal minimum provided by provincial laws;

(b) Six per cent above current replacement costs on commodities other than fresh fruits and vegetables -- on fresh fruits and vegetables the minimum is 15 per cent, as previously stated.

When we come along and make statements in regard to company policy, it is a great satisfaction to be able to produce a booklet in which company policies are set out. This booklet was printed long before any Commission ever started to sit. It shows our good faith in this respect. This booklet called "Policies" is revised from time to time, and has been in existence ever since the company started doing business in Canada. Anyone who is interested in having this booklet may have it. A policies booklet is also issued in the United States.

This tells the public how we do business, and what our practice is. And so, when we come along and make this statement in regard to "6 per cent above current replacement costs on commodities other than fresh fruits and vegetables" we do not have to argue that that is put before you simply for the purposes of these representations, but we can point out that it has been a matter of public record for some time.

THE CHAIRMAN: Would you let our Secretary have one copy of that for the record?

MR. MacAULAY: I will tell you what we have arranged to do. There is a gentleman who

was to have brought down a number of copies. We propose to have three of them available. I believe, as a matter of fact, we can have five or six of them, or as many as you may need, before the day is out.

Our pricing policy in this Policies booklet is set forth at page 43 where it refers to the four factors to which I have referred -- the basic principle, the competitive position, the laws, and then another paragraph with the heading "Produce". That begins:

> Maintain a reasonable (at least 15 per cent) markup over landed warehouse costs on all fresh fruits and vegetables, except in cases where it is necessary to meet competition, or to move distressed merchandise.

And then it continues -- and I shall read from the booklet rather than from the brief:

> Upward or downward adjustments in retail prices shall generally be made within the limits of the foregoing policies. Adjustments may also be made under the following special circumstances:
>
> (1) When it is necessary to make constructive upward adjustments for the purpose of restoring sound prices, when unsound low prices have previously existed.

Some person may lead the price down, and when the

competitor leads the price down we follow the price. And then, when the trade has had enough of selling at a loss, we attempt to be constructive in moving the price back up to where it should be. And that is what is meant by the first portion of that.

Now, I have been asked the question, in appearing before different bodies -- the milk board, and so on -- why does Safeway worry about the little corner grocery store selling two items at less than you sell them for?

Well, in the city of Winnipeg there are 750 little corner grocery stores, and if each one undersold us on two items, that would be a total of 1,500 items.

THE CHAIRMAN: They do not undersell you on milk, do they?

MR. MacAULAY: No, they do not undersell us on milk. And so we would find ourselves in a very short time in a position where we would not be competitive.

If people could go other places and get 1,500 items lower than they could get them from us, we would soon be out of business. And so it is company policy that if the other fellow starts it, then we follow. And then we attempt to be constructive in bringing the price back up, after there has been an experience of that kind. Selling below cost does not do anybody any good.

There is another point. When the other

fellow introduces a low price, and we follow him, we usually try -- and we usually succeed -- to obtain evidence to indicate that he started the low price. And if it is necessary to take a photograph of his window in which that low price is advertised, or a photograph of the sign which he keeps outside his store, we do so. If he advertises in the newspapers, that is a different story. We just get a copy of the ad.

And then we show that he advertises that low price on that day, and that we followed the next day. If he does it by a sign in the window, or a sign on the street, we take a photograph of that and have it available to establish the fact that he started it, and that we followed.

I was very much impressed, Mr. Chairman, by your reference to loss leadering yesterday, that you had to attach some meaning to the word "loss" and some meaning to the word "leader".

If there is below-cost selling, and you are going to give some meaning to the word "leader" then I say the fellow who starts it is the fellow who sells a loss leader. But the fellow who follows the price is only trying to protect his competitive position. He has to meet that price in order to protect his competitive position. Otherwise he would lose all his customers.

And so I say it is the man who is selling below cost who, in the first instance, is

selling a loss leader. But the second man is not doing that; he is just protecting his competitive position.

Then, to return to this Policies booklet:

> (2) Where a surplus inventory exists of a particular commodity or group of commodities and a change is impending in the price level on all commodities generally, due to excessive production or diminishing consumer purchasing power, or some combination of the two. Retail price adjustments made under such circumstances shall not be reduced below:
>
> (a) the legal minimum provided by provincial laws.
>
> (b) Six per cent above current replacement costs on commodities other than fresh fruits and vegetables in provinces without applicable statutory provisions. Prices on fresh fruits and vegetables shall be governed by paragraph 4 of this section.

And in this booklet -- and I shall not have to refer to it again --there are references to loss leaders. At page 49 it says:

> Safeway shall not use any product as a loss leader.

And then, at page 30 of the booklet under the

heading "Farmer and Producer Relations" there is a reference to Safeway's pledge to farmers. It states:

> Safeway is opposed to the use of fruits, vegetables, dairy products, meats and other agricultural products as "loss leader" -- the practice of selling farm items below cost to lure customers.

And again, at page 38 in the booklet:

> It is company policy neither to use milk as a loss leader nor to attempt to make an unwarranted profit on its sale.

Those references to loss leading appear under "Farmer and Producer Relations" and then under the heading "Milk". And then there is the all-inclusive state ment made under the heading "Sponsored Brands".

We will have a copy of this booklet filed with the Board, and a sufficient number of copies will be made available for all who are interested.

MR. WHITELEY: On the matter of meeting the price of competitors, is it the policy of the company to have the new price apply throughout the territory? In other words, if one small store in the city of Winnipeg in one particular district reduced its price on one item, does Safeway then lower its price generally throughout the Winnipeg territory?

MR. MacAULAY: I think perhaps I will have Mr. Kraft answer the question, as applied to Vancouver.

MR. KRAFT: Usually not. It is confined to the local area in which the price-cutting takes place. That is true, except where price-cutting has taken place in more than one area of the city. If it is taking place in several districts of the city, then we would meet the price in all our locations.

But if it is an isolated instance of price cutting we would meet the condition in the neighbouring store or stores, possibly one or two stores, in that neighbourhood. If it spreads generally, then we would meet the condition in all locations.

MR. WHITELEY: You would do that by changing the price in your local branch?

MR. KRAFT: Yes, that particular store.

MR. WHITELEY: You would not advertise that?

MR. KRAFT: No, we would not advertise that.

THE CHAIRMAN: Does the local store manager do that through you, or through the zone manager?

MR. KRAFT: He does it in consultation with his district manager and price maker. But the location managers, all of them, have been

alerted and have been advised to contact their district manager promptly if and when they find any price-cutting in their area. They are then given the green light to meet conditions. That is generally true.

Once in a while, when price cutting is very severe, and it is considered to be of a very temporary nature, it may not be met. But almost always, it is met.

MR. MacAULAY: There have been a number of references by Mr. Kraft to location managers and district managers and zone managers, and I think perhaps we had better explain those terms.

If I understand, they can be described in this way -- and if I am not correct, Mr. Kraft will correct me. He is the divisional manager in charge of operations in all of British Columbia and Alberta. Mr. Crawford is the zone manager in charge of all operations in the Vancouver district. The zone is divided into districts, and there is a district manager in charge of each district. Is that correct?

MR. CRAWFORD: Yes, that is correct.

MR. MacAULAY: How many districts are there in your zone?

MR. CRAWFORD: There are four.

MR. MacAULAY: There are four districts in your zone, for each of which there is a district manager. And the location manager is the man in the store -- in the particular store.

And so this is something that we expect, and this is something that we do not have to deal with -- or Mr. Kraft does not have to be told about when it happens. We know this thing is going to happen, that we are going to be called upon to meet a competitive price. And so it is something with which the district manager is familiar, and the location manager knows about it, and steps are taken immediately to deal with the situation.

> Safeway has stated many times in its written policies and elsewhere that it strongly opposes the use of "loss leaders." We might add here -- as we shall develop later -- that Safeway does not use loss leaders. Moreover, we believe the use of loss leaders by any of our competitors in western Canada is so rare as to merit no concern by anyone.
>
> <u>What a Loss Leader Really Is</u>
>
> One of the requests by the Commission in this inquiry has been for a sound definition of a loss leader.

And I might say when we received your letter in the first instance, one of our difficulties was that, while we wished to be of assistance, we did not know whether or not we would be allowed to use our definition of loss leader in answering those questions. And if we could not use our own definition we did not know how we were going to

answer the questions.

There was a very, very substantial amount of work involved in assembling the information to answer those questions. And if we had to assemble the information on the basis of two or three definitions of a loss leader, we would have had to cease operations for a month or six weeks, and to have devoted ourselves entirely to the answering of the questions.

We are making our answer here on the basis of our definition of a loss leader, and might I say that this was submitted to the Director.

THE CHAIRMAN: That is satisfactory. What we have been concerned about is this: because of the fact that many people presenting briefs have had different ideas about the proper definition of a loss leader, we wish to be sure that we know what each one is speaking about when he talks about a loss leader, so that we will know exactly what his complaint is, if in fact he is complaining.

MR. MacAULAY: When I attended your opening session in Ottawa the matter was clarified. That was my principal object in attending the opening session -- to have that clarified. After I attended the opening session I knew the reason behind your views.

Then, to continue:

Safeway would like to recommend the

following definition of a loss leader as a sound and honest one:

> A loss leader is a sale made at a price below the lower of invoice or replacement costs with the intent or purpose of injuring or destroying competition or misleading customers. By its terms, this definition does not include or apply to any sale made
>
> (1) in closing out in good faith the seller's stock or any part of it for the purpose of discontinuing dealing in such article or product;
>
> (2) for the purpose of preventing loss by spoilage or depreciation in the case of seasonal or perishable goods;
>
> (3) when the goods are damaged or deteriorated in quality and notice of that fact is given;
>
> (4) in good faith to meet competition.

That definition appears at page 94 of the Director's report. We had given him that definition pursuant to his request some fifteen months ago. Then, to continue with the brief:

> Safeway considers that many of the definitions of loss leader which have been submitted to the Commission are

quite impractical, unrealistic and sometimes deceptive. Some dangerous definitions which have been submitted would define loss leaders as sales at prices below average markup prices or sales at prices less than the customary prices when the purpose of these low prices is to allegedly attract customers to the store to purchase other items.

It should be pointed out that in any honest definition"loss" must be invoIed before there is a true loss leader. Retail grocers know from experience that in many cases a quite satisfactory profit can be made on an item that sells at substantially less than the average markup for all items handled, particularly if the item is one which has a rapid turnover. The soundness, from both a public and private point of view, of doing a volume business at low unit profit has been proven time and again. Any definition of loss leader that would stigmatize an item that is actually profitable is, in Safeway's opinion, quite inadequate.

It is important not to confuse loss leader selling with selling of distress merchandise. Occasionally, merchandise becomes available to retailers at

substantially reduced prices by reason of bankrupt stocks coming on the market, or because surplus farm commodities are being moved at low prices, or for some other reason. The sale of such merchandise by the retailer at correspondingly low prices has nothing to do with loss leader selling because if goods are bought at a low price, they are naturally resold at a low price; that is the way it should be, in the public interest.

The fact that many definitions of loss leaders would outlaw low prices even where such low prices are profitable to the efficient retailer creates suspicion that many special interests are not so much against true loss leaders as they are in favour of handicapping efficient retailers.

Now, I listened to the submissions made on behalf of the baking industry in Ottawa. I happened to be a member of the bread administrator's advisory committee during the war. I was asked to serve on that committee to represent chains. When I was asked to comment on a certain subject I said that I was amazed that some bakeries were selling twenty-two different items -- that they were making twenty-two items in their bakeries. Every item you add adds cost. They inquired what Safeway did. We said that our

maximum at that time was seven items. And there is a very great difference in the cost of producing seven items in a bakery than in the cost of producing twenty-two items.

In that brief I believe it was suggested that any person who sold at less than the average markup was selling something as a loss leader.

THE CHAIRMAN: We have had that idea put to us, too. I do not know how you would determine the "average" under those circumstances.

MR. MacAULAY: No, I do not know, either. But let me suggest this to the Commission -- and I put this to the Commission as a result of having listened in at some of the hearings. Our average markup may be 16 per cent or 15 per cent -- we will suppose that that is the average. Then, we sell an item at a markup of only 9 per cent. If we could sell our total volume in that particular item at 9 per cent markup, we would make a lot more money than we make now on the same volume.

Or if we could take our present volume -- and I think our last annual statement indicated a volume of perhaps $149 million -- if we could sell $149 million worth of nothing but one of those items that has a markup of 9 per cent, we would make a lot more money than we make when we are handling 2,989 items.

That is the number reflected by this brief, I believe, and they are at markups ranging from the low indicated in the brief to the high indicated in the brief. And we would require much less help; we would require perhaps much less space and we would have much less rent to pay; and our costs would be decreased in every respect.

So anybody who comes along and suggests that if you sell something below your average markup that you are selling a loss leader -- well, he just does not appreciate the facts of business, or else he is not being honest. He has an axe to grind.

THE CHAIRMAN: Any proposal of that kind really involves a uniform markup on all goods.

MR. MacAULAY: That is right -- which is nonsense, under present day merchandising. And that is all I am talking about here, of course.

Then, to continue with the brief:

<u>Some Questions Asked by Commission</u>

In a letter from the Secretary of the Commission dated May 17, 1954, it was indicated that the Commission would be interested in receiving the views of Safeway on the following, among other, questions:

"Explain how the 'average' markup

is derived from a wide range of individual markups and what difficulties would be involved in establishing a uniform markup for all or most grocery products.

"Describe the effect on food prices generally if resale price maintenance or minimum markups were extended widely to this field."

To answer these and other questions and to show the difficulties and disadvantages in any proposal to legislate higher markups for grocery retailers, Safeway wishes to set forth certain basic facts regarding the grocery business, particularly the way a typical efficient, low-cost retailer operates.

How Markups Vary

There is considerable variation in the markups applied to the 2,889 different items sold, for instance, in a typical Safeway store, in Vancouver.

The following schedule show two things about such a store --

(1) How markups vary on different grocery items from under 6 per cent to more than 35 per cent;

(2) The number of items that carry markups of different sizes.

Then, the table to which I have referred is as

follows:

Safeway Markups in Vancouver Trading Area*
Number of Items

Markup Category %	Grocery Items	Produce Items	Meat Items	All Items Combined
6 & under	15	1	3	19
6.1 - 7	31	0	1	32
7.1 - 8	25	0	4	29
8.1 - 9	43	0	0	43
9.1 - 10	45	0	5	50
10.1 - 11	64	0	16	80
11.1 - 12	100	0	10	110
12.1 - 13	127	0	12	139
13.1 - 14	130	0	15	145
14.1 - 15	222	0	21	243
15.1 - 16	190	0	15	205
16.1 - 17	260	2	12	274
17.1 - 18	238	1	17	256
18.1 - 19	178	1	15	194
19.1 - 20	116	1	22	139
20.1 - 21	127	2	25	154
21.1 - 22	57	4	17	78
22.1 - 23	83	1	15	99
23.1 - 24	77	1	14	92
24.1 - 25	42	3	19	64
25.1 - 26	23	4	18	45
26.1 - 27	45	3	5	53
27.1 - 28	39	6	15	60
28.1 - 29	27	7	9	43

Markup Category %	Grocery Items	Produce Items	Meat Items	All Items Combined
29.1 - 30	16	10	5	31
30.1 - 31	25	6	4	35
31.1 - 32	16	0	4	20
32.1 - 33	11	1	1	13
33.1 - 34	13	1	2	16
34.1 - 35	4	1	1	6
35 and over	93 #	3	26	122
Totals	2482	59	348	2889

* Comparable figures for the Winnipeg Division are given in Appendix A.

Only one food item falls in this category, namely, a spice (ginger). The rest of the items are drug and household supply items, etc.

And we have in this table which I have placed on the record divided this, as you will see, as "Six and under" with fifteen grocery items, one produce item, three meat items and nineteen "All items combined". I put this "6 and under" because there may be -- and I am not saying that there are -- but there may be some items sold at 5, or under 5 -- there may be. But if they are, they come within these exceptions here.

MR. FAVREAU: At page 4?

MR. MAcAULAY: Pages 4 and 5. They come within those exceptions. That is, they would be "When the goods are damaged or deteriorated", or "In good faith to meet competition"

or "For the purpose of preventing loss by spoilage or depreciation in the case of seasonal or perishable goods."

MR. FAVREAU: I was speaking of page 4, because that is where you refer to 6 per cent as a minimum, and then you list several exceptions which you repeat on page 5.

MR. MacAULAY: Yes, that is right. I will be commenting on this table later. We say there, under the heading "Markup Category" "35 and over" -- 93 grocery items. They are not really grocery items. I asked last evening to be told what those were and, as an example, they are principally hardware items such as clotheslines, mousetraps, toothpaste, bobby pins, Airwick -- which is a deodorant -- rolling pins, knives, spoons, can openers, and so on. And the sum total of those ninety-three items represents two-fifths of one per cent of our total volume.

I wanted to give that explanation to the Commission so that there would be no suggestion that we were putting in the high markup category any grocery items, or any important item of food. Those are the items that fall in that last category.

THE CHAIRMAN: The brief says there is just one food item.

MR. MacAULAY: Yes, only one food item falls in this category, namely, a spice, ginger. The rest of the items are"drug and

household supply items" -- and it should have said, "hardware".

For instance, we sell toothpicks at 5 cents. They might cost us $3\frac{1}{2}$ cents. If we sell them for 4 cents, perhaps we might not have enough profit there. But we cannot sell them for $4\frac{1}{2}$ cents. We put them up to 5 cents, and we have $1\frac{1}{2}$ cents on $3\frac{1}{2}$ cents, and it makes a high profit category. A lot of those items fall into that category, which makes some difficulty in pricing when you are not able to split a cent.

Then, turning again to the brief:

> Markups covered by the table apply to all items sold by grocery, meat or produce sections.
>
> The schedule is based on Safeway retail markups in effect on June 8, 1954, in the Vancouver trading area.
>
> Note especially how the heaviest concentration of markups is found in the 10 per cent to 20 per cent categories.
>
> The average markup, incidentally, is 16 per cent for the latest period for which data is available -- which is for the four weeks ending May 22, 1954.

And when I say the average markup is 16 per cent, that does not mean that it is the average gross profit. We may have to reduce those markups later on for one reason or another --

to move merchandise in order to prevent deterioration. The markup is the markup as applied in the first instance. But as we proceed further in the brief you will find that the gross profit is 14.7 per cent.

THE CHAIRMAN: That is the weighted average markup?

MR. MacAULAY: Yes, that is right. To continue:

> Another schedule has been prepared to give a picture of how markups vary on common items bought by everyone. The following table shows the percentage markups for 85 principal items whose prices are reported regularly by the Dominion Bureau of Statistics for use in compiling the consumer price index. These items form a representative cross-section of the most common items finding their way into the market basket of the average Canadian family. It shows markups ranging from under 6 per cent to 41 per cent with an average markup of 16 per cent. (The items included in this schedule are, of course, included in the total of 2,889 items referred to in the preceding exhibit.)
>
> It will be noted that the most necessary and highest volume staples, such as flour, sugar, coffee, milk, eggs, butter,

lard, cocoa and soup and similar items, carry markups which are less than average, and that the less important foods, such as jams, cheese, pickles, etc., tend to be concentrated in the higher-than-average markup categories.

The average markup shown in the table on the following page is 16 per cent. We get up to 41 per cent only on light bulbs. This is for eighty-five principal items, the prices of which are reported by the Dominion Bureau of Statistics. And that is how light bulbs happened to get into that category, because it is one of the eighty-five items reported by the Bureau of Statistics.

THE CHAIRMAN: They do not include cigarettes in that?

MR. MacAULAY: No.

THE CHAIRMAN: It is called "Food Items"; but light bulbs are not food items. I notice that one or two others, too, are not food items.

MR. MacAULAY: That is right. They refer to the markups for eighty-five principal items the prices of which are reported regularly by the Dominion Bureau of Statistics for compiling the consumer price index. So I suppose that light bulbs would enter in that compilation of the consumer price index. That is how light bulbs get into it. It refers to the cost of living. Then

I say:

See Appendix C for detailed supporting data from which above table was taken. Also see Appendix B for comparable data for Safeway Stores in Winnipeg.

Now, there is not much variation there. You will notice that I have not put in the mark-up on fresh milk -- I have not put it in. It is over 5 per cent. We have had a competitive situation here, and we got permission in the last month or so from the milk board, following an appeal to the Cabinet, to build a milk plant. Meantime we are proceeding with the building of the milk plant here.

The milk board refused us a certificate of convenience and necessity because they thought there were enough milk plants in this area. We appealed to the Cabinet and the Cabinet allowed our appeal, after some months. And so we are proceeding with the milk plant.

In the meantime we are purchasing our milk supplies from one of the dairies. And I think it is just as well if we do not indicate the exact profit that is being made on the milk. But I can assure the Commission that that is to protect his competitive position, and ours.

Let me tell the Commission that it is in excess of 5 per cent. We are not committing a breach of the minimum markup law in

British Columbia. I just make that explanation as to why the blank appears.

Now, I might as well refer to Schedule A, Appendix A, which comes after page 49 of the brief. The information which appears in the brief in regard to Vancouver is given here for the Winnipeg area, and it gives the markup on all items combined there. It will be noted that in Winnipeg we do not sell as many items inthe stores as they sell here. There are over 200 items less than are sold in the Vancouver area.

You might find some difference in the markups, on analysis. The divisional manager is supreme in his own division. The divisional managers do not contact one another, and discuss prices, markups or any other matters. They are independent operators. The purpose of that is this, that you might have a strong-minded, efficient divisional manager in one place, and a weaker and less able divisional manager in another place.

Well, if they are conferring all the time, and if one was making all the decisions, the manager would never find out, and would not realize the weakness of the man who was having all his decisions made for him by the other divisional manager.

So the divisional managers do not confer. They run their own divisions. They

do not consult on markups or anything else. Their operations are entirely independent operations, subject always to the instructions they receive of course from the head office of the company.

I believe I have given a proper description, have I not, Mr. Kraft?

MR. KRAFT: Yes, that is right.

MR. MacAULAY: Now, in Appendix B we give the same information on the eighty-five items for the Winnipeg division as is given in the brief for the Vancouver division. I have not studied the two of them carefully, or compared the respective items, but I would naturally expect some difference -- perhaps not a substantial difference -- in many instances. I would be very much surprised if many items were identical in their markups, for the reasons I have given -- that there is absolutely no conference between the divisional mangers.

And you will notice here that, so far as Vancouver is concerned, at the bottom of page 11 I have already referred to light bulbs; and the only other item that reaches 30 per cent is eating apples. And those items -- eating apples and light bulbs -- as pointed out at the bottom of page 11, are the only two items that are in the 30 per cent or over category, in the whole eighty-five items.

Then, turning to this table in the brief

at page 10, which deals with markups, I would place it on record as follows:

SAFEWAY MARKUPS ON TYPICAL COST-OF-LIVING FOOD ITEMS

(Based on Vancouver Store Costs and Prices, June 8, 1954)

Name of Commodity	Markup	Name of Commodity	Markup
Fresh Milk		Tinned Milk	7½%
Soap Flakes	6½%	Rolled Oats	12½%
Flour	6½%	Sardines	12½%
Canned Corn	7%	Shortening	12½%
Coffee	8½%	Fresh Eggs	12½%
Peanut Butter	8½%	Margarine	12½%
Laundry Soap	9%	Cake Mix	13%
Butter	9%	Cleanser, powder	13%
Black Tea	9½%	Corn Syrup	13%
Veal, average all cuts	11%	Flour, White all purpose	13%
Corn Flakes	11%	Beef, average all cuts	13½%
Toilet soap	11%	Bread	13½%
Detergent	11%	Smoked Ham, butt or half	13½%
Smoked Picnics, bone in	11%	Peas, tinned	13½%
Cod, smoked	11%	Toilet Paper	14 %
Table Salt	11½%	Beans, dry common, white bulk or bag	14½%
Sugar	11½%	Bacon, fancy, side	15%
Raisins	12%	Jam, strawberry	15%
Salmon, Sockeye	12%	Infant's Food	15½%
Vegetable Soup	12%		
Cocoa	12½%		
Average Markup All Items Combined			16%

Name of Commodity	Markup	Name of Commodity	Markup
Bleach	16½%	Cod Fillet, fresh	19½%
Cheese, plain processed	16½%	Broom, med. quality	21%
Marmalade	16½%	No. 1 Tomatoes	21½%
Peaches, Choice, halves	16½%	Waxed Paper	22%
Rice	16½	Pork Loin Chops, centre	22½%
Strawberries, Frozen, Fancy	16½%	Bologna	23%
Apple Juice, choice	17 %	Chocolate Bars	24%
Floor Wax, paste	17 %	Cheese, Canadian, med. (bulk)	24%
Orange Juice	17 %	Grapefruit	24½%
Pickles, sweet mixed	17 %	Carrots, Tops off	25%
Soft Drinks	17 %	Halibut, steak, fresh	25½%
Chicken Gr.A Milk Fed	17 %	Cabbage	26%
Green Peas, frozen, fancy	17½%	Tomatoes, fresh field	26%
Macaroni	17½%	Pork Hockless, shldr.	27%
Bananas	17½%	Celery	27½%
Beans, baked with pork	18%	Oranges	27½%
Cookies, vanilla	18%	Lemons	28½%
Lamb, average all cuts	18%	Turnips	28½%
Salmon, canned Fancy Pink	18%	Onions	29%
Pure Pork Sausage	18%	Lettuce	29½%
Prunes	18½%	Apples, eating	30%
Grapefruit Juice	19%	Light Bulbs	41%
Tomatoes Choice 2½'s	19%		

Note See appendix C for detailed supporting data from which above table was taken. Also see appendix B for comparable data for Safeway Stores in Winnipeg.

And then, turning again to the brief at page 12:

How Average Markup is Derived From Markups on Individual Items

The Commission Secretary has asked Safeway to comment on how the average markup is derived from individual markups.

As has been shown already, different items carry different markups. Some markups are below 6 per cent. A few items carry better than 35 per cent markups.

When the dollar volume of each item at its given markup is taken into consideration and a weighted average taken, we come up with an average markup. For Safeway Stores in Vancouver, for instance, the average markup is now approximately 16 per cent.

Why Markups Vary

As we have just seen, one of the most outstanding characteristics of markups in the retail grocery business is lack of uniformity. Nothing is more characteristic of the industry and nothing is more important -- for with variation comes flexibility and with flexibility comes a minimum of costs and the maximum of efficiency.

The following are some of the reasons why markups vary from one item to

another. The information is based on prices and markups in Safeway Stores in Vancouver on June 8, 1954.

Perishability

Other things being equal, a highly perishable item is likely to have a larger markup than a non-perishable item. For instance:

(a) Highly perishable layer cake (take Willman's at 45¢) selling at a 26 per cent markup.

(b) By contrast, a popular type of biscuit (Christie's Ritz, selling at 19¢ for 8 ounces) sells at a 9 per cent markup. This is a relatively imperishable item.

Bulk

The bulk of an item tends to exert some influence on its markup. Larger bulk requires more shelf space in the store, more floor space in the store stock room for storage. Space costs money. Many times it will be found that the bulkier of two items carries the larger markup. Here is an example:

(a) Compact tins of breakfast cocoa, such as Fry's 8 oz. tin selling for 42¢; Markup - 13%.

(b) By contrast, bulky potato chips, such as 8 oz. package selling for 37¢:

Markup -- 31 per cent.

Turnover

A fast-moving item can yield a reasonable profit on a much smaller markup than a slow-moving item. That is why the most popular brands are often found carrying the smallest markups.

Here are some examples of large markups on less popular items in contrast to small markups on highly popular products:

A. Examples of Less Popular, Higher Markup Items:

(i) Apple sauce, in cans (same bulk and price as canned milk), selling at a 17 per cent markup.

(ii) Slower selling Baby's Own Soap bars (2 for 29¢) carries a 23 per cent markup.

B. Examples of Popular, Low Markup Items:

(i) Canned Milk, fast moving item -- selling at 7½% markup.

(ii) Lux toilet soap, fastest selling brand (3 for 29¢), carries a 10 per cent markup.

Some idea of how turnover varies for different items is given by the following data on typical sales of selected items in a given week. (The number of Safeway stores involved is the same for each set of figures).

Fast Moving Items		Slow Moving Items	
1.	Canned milk 411,888 tins sold weekly	1.	Empress Ginger 528 tins sold weekly
2.	Sugar 75,510 - 5 lb. sacks sold weekly	2.	Smoked Oysters 1,938 tins sold weekly
3.	Lux toilet soap 32,184 bars sold weekly	3.	Apple sauce 12,584 tins sold weekly
4.	Jello 75,240 packages sold weekly	4.	Baby's Own Soap 4,888 bars sold weekly

And so we have some items that turn over every day, and so we make thirty sales with the same shelf space as we do on one item that sits there for thirty days without being sold. And then, to continue:

Cost

Obviously an expensive item can afford to carry a much smaller markup than an inexpensive item and still yield the same net profit as a less expensive item with a higher markup. Take cigarettes versus candy, for instance:

A. Carton of cigarettes, at $2.95, sells for a 7 per cent markup.

B. Chocolate candy bar, such as Cadbury's selling at 5¢, carries a 29 per cent markup.

Handling Costs

Handling Costs are a factor always taken into consideration in setting markups.

Items more expensive to handle may be expected to show greater markups than items whose handling costs are smaller, other factors being equal.

For example:

A. $3\frac{1}{4}$ ounce package of jelly powder (such as Jello Brand selling at 6 for 57¢ -- 36 packages in an 11 pound case) carries an 11 per cent markup.

B. By contrast, bulky, breakable, difficult to handle gallon glass jugs of Heinz's Malt Vinegar, (58 pounds to a case) selling for $1.75, carry a 29 per cent markup.

THE CHAIRMAN: Is the arithmetic right in A? You refer to $3\frac{1}{4}$ ounce package, 36 packages in an 11-pound case. Is that how it works out? That is nearly five to the pound?

MR. MacAULAY: Thirty-six packages -- 108 and 9 is 117 -- 117 ounces.

THE CHAIRMAN: I think it would be closer to fifty packages.

MR. KRAFT: The difference is in the weight of the case.

THE CHAIRMAN: That makes up all the difference, does it?

MR. KRAFT: I would not swear to it, but I think that is correct.

MR. MacAULAY: We will have our price

maker go into it and tell us afterwards. Then I continue:

Necessities versus Luxuries

Generally speaking necessities, the staple foods, carry the smallest markups, although there are exceptions where there is greater perishability, handling costs, etc. Nevertheless, there is a definite pattern in this direction.

A. Examples of Low-Margined Necessities:

(i) Flour (Robin Hood 10-pound package, price 67¢) carries a 7½ per cent markup.

(ii) Shortening, such as Domestic brand, 1 pound, selling at 28¢; Markup -- 13 per cent.

(iii) Rogers syrup, #2 tin -- 11½ per cent markup.

B. Examples of Higher Markups for Luxuries:

(i) Ginger spice, 1½ ounce tin (Empress brand, for instance): 37 per cent markup.

(ii) Danis Blue Cheese, selling at 75¢ per pound. 28 per cent markup.

(iii) Stuffed olives, such as Rose's 9 ounce bottle: 24 per cent markup.

Traditional

In a large number of cases one cannot attribute either a large or small markup to

perishability, bulk, cost of handling, popularity, etc. In many of these cases we find that the traditional competitive practice in the given locality is responsible. It must be emphasized that margins for a given brand of a given product will often vary substantially from one area to another due to differences in local popularity, traditional pricing practices, and other factors.

Historically in the Vancouver area we find for instance, that butter and eggs are given small markups, paper items are given larger markups; also we find sugar, with a traditionally small markup, and bathroom supply items, on the other hand, with substantially larger markups.

A. Examples of Traditionally Small Markups:

(i) 5 pounds of granulated sugar, in bag, 44¢ selling at $11\frac{1}{2}\%$ markup.

(ii) One dozen medium sized eggs, 47¢, at 6% markup.

B. Examples of Traditionally Large Markups:

(i) Toothpaste, Colgate's Chlorophyll, 35¢ size, at 35% markup.

(ii) One box 33¢ Kleenex tissues, at 23% markup.

<u>Competition</u>

As previously explained the company

must protect its competitive position by meeting the prices of its competitors in the trading area, and this may lead to a particular markup being different than it would have been if only the foregoing considerations had been given effect to in determining the markup.

Conclusion

It should be emphasized again that while many, many instances of large or small markups can be explained in terms of large or small handling costs, turnover, bulk, perishability, etc., in many other instances such factors are not the explanation. In most of these remaining cases either traditional practices or current competitive considerations are dominant.

Furthermore, the grocery business is ever changing and what are relatively high handling costs or high perishability losses for an item today may be reduced tomorrow by new techniques of handling or packaging. Consequently, margins are continually changing.

I think that is the answer we gave to Mr. Davidson's first question, to explain the system of markups. We endeavoured to get the idea over as well as we could, as to how that was done.

THE CHAIRMAN: There is one question, just while we are at it. At page 16, under the heading of Traditionally High Markups, I was wondering whether, historically, resale price maintenance had anything to do with the fairly large markups.

MR. MacAULAY: I think so, yes, and I will tell you why. We were ordered to maintain prices, and we never got down to it. We were discussing this among ourselves last evening. We were ordered to sell at 35 per cent or 23 per cent markup. And then, since our operations we just never gave the matter any serious consideration.

MR. KRAFT: We have adjusted some prices.

MR. MacAULAY: Yes, we have adjusted many of them, but ---

THE CHAIRMAN: Referring to these two mentioned here ---

MR. KRAFT: That would be true.

THE CHAIRMAN: These I would suppose are drugstore items?

MR. MacAULAY: Yes, drugstore items.

THE CHAIRMAN: They are items on which the markups have been traditionally higher than markups in the food business, and in which frequently in the past there has been resale price maintenance. Has that played any part in the fact that these two items seem to have

traditionally higher markups?

MR. MacAULAY: Of course, in the past, while there was resale price maintenance, we have refused to handle items where we were told to take this markup or that markup. We said, "The markup is unconscionable on that item, and we will not handle it at all."

Sometimes you get yourself into a position of taking that attitude where you have to do without a line -- have to do without a line at all. And we got ourselves into trouble shortly after we opened up in Canada in 1929, where we said that once we bought a product it was ours, and that we would do what we liked with it.

Somebody said that we could not do that. So, when we proceeded to sell at a price we thought was a fair price, we found that we were without the product. Then, after raising a big fuss for a number of months, and endeavouring to get the product, and still being without it -- well, we very unwillingly submitted. And the next thing we knew we were involved in a combines investigation case.

So we did our best to break down this situation, in the early stages of our operations -- those persons coming along and telling us that once we bought an article we were to sell it at a certain price -- at what price we were to sell it, and that we could

not have it unless we sold it at that certain price. We have refused. As I said, we have refused on occasions to handle items, simply because we refused to sell at the indicated price.

Then, turning again to the brief:

IX

Facts About Operating Costs and Net Profits

In few if in any lines of business is the net profit per dollar of sales smaller than in grocery retailing.

Intense competition between grocery stores of all kinds and sizes plus the importance of the principle of selling large volumes of foods at low unit profit has produced a situation where net profits of grocery stores seldom exceed 3 cents on the dollar of sales.

In Safeway stores throughout western Canada, for instance, for the year 1953 the net profit to the company, after taxes, for each one dollar's worth of groceries sold amounted to but 2.9 cents.

Consider the fact that the average grocery item sells for about 30 cents. That means that the company's net profit is only three-fourths of a cent on the average item. Where a selling price of 30 cents produces less than a penny

profit, 29 cents would mean a virtual loss.

That is, if we are selling at 30 cents and have only three-quarters of a cent profit, then if we sold at 29 cents we would have a quarter of a cent loss. I continue:

For Canada as a whole, Safeway's gross profit per dollar of sales in 1953 came to 14.7 cents.

From this 14.7 cents, 11.8 cents were paid out in wages, rental, equipment costs, supplies, taxes and other expenses.

This left 2.9 cents for net profit.

We want to emphasize that any legislation that would disrupt the retail grocery business and increase operating costs would jeopardize this very slender net profit margin. Without profits, the future growth and progress of grocery retailing would be impaired.

X

Facts About Pricing Meat Items

A study of how meat items are priced in a typical grocery store illustrates the absurdity of trying to impose uniform prices or markups in the grocery business.

Take beef in a typical Safeway store in Vancouver on June 8, 1954, for instance.

Safeway was paying 38 cents a pound wholesale for beef carcasses of top grade.

From an average 550-pound beef carcass, Safeway was cutting some 37 different retail cuts (almost 100 pounds was fat, bone and waste which had only salvage value or less).

These cuts were sold at prices ranging from a low of 7 cents a pound for soup bone to a high of $1.55 for tenderloin or fillet steaks. When the fat and bone that is sold as salvage, plus the cutting waste, etc., are taken into account, the average per pound return to Safeway for that carcass for which the company paid 38 cents per pound was 43 cents.

Note in the following schedule how actual selling prices on different cuts varied:

Then we say that the average cost to Safeway of a carcass of beef is 38 cents a pound. The return from the various choice cuts is $1.55, $1.05, 89 cents -- and then it goes down to rendering fat at one-half a cent per pound. We pay 38 cents for the over-all carcass, and we get down to one-half a cent per pound for rendering fat, and one-half a cent per pound for rendering bones. For the waste we get nothing,

for the knuckle soup bone we get 7 cents, and for beef fat we get 13 cents, and so on. That is a highly technical operation, I might suggest. That is, you have to be very careful with your pricing in order to get your cost back, and a reasonable profit. The tables to which I have been referring are as follows:

SAFEWAY BEEF PRICES - VANCOUVER ZONE - June 9, 1954

(Average cost to Safeway of beef carcass: 38¢ per pound.)

	Retail Price
Tenderloin or fillet steak	$1.55
Top sirloin boneless (roast or steak)	1.05
Porterhouse steak or roast	.89
Sirloin Tip Boneless roast (all cuts)	.82
Sirloin steak or roast	.82
T-Bone steak or roast	.82
Club steak or Wing roast	.82
Inside rolls	.79
Waffle steak	.79
Round steak or roast (1st and 2nd cuts)	.73
Rump roast (Shellbone and corner)	.72
Beef rib steaks	.72
Flank steaks (boneless)	.69
4 Bone standing rib roast	.69
Rump roast (1st and 2nd cuts)	.65
Round bone shoulder steak	.62
Outside rolls	.62

Round roast cross rib end	.59
Heel of round (boneless)	.57
Blake rib roast (5th - 7th ribs) boneless	.55
Blade chuck roast (blade cut)	.52
Round bone roast shoulder whole	.52
Beef brisket boned and rolled	.45
Skirt steak, boneless	.45
Boneless stew beef	.45
Average carcass return	.43
Blade chuck roast or steak	.42
Ground beef 85% lean	.39
Thick short ribs (5th - 7th ribs)	.39
Shank beef, center cuts	.39
Round bone roast, round end	.37
Short ribs beef	.33
Shank beef whole	.29
Shank beef end cut	.25
Brisket beef (bone in - 5 bones)	.19
Plate beef	.19
Beef fat	.13
Knuckle soup bone	.07
Rendering fat	1/2 cent
Rendering bones	1/2 cent
Waste	0

Then, to continue with the brief:

The reasons why it was necessary to price some cuts at less than 38 cents, and other cuts at more than 38 cents constitute what might be called the facts of

life, about the retail meat business.
We do not think anyone with knowledge of these facts would ever recommend a uniform markup law that would apply to this business.

Briefly, here are these facts:

(1) In any beef carcass there are but a very limited number of the more desirable roasts and steaks.

(2) By far the largest proportion of any beef animal consists of poorer type cuts such as stewing meat, short ribs, briskets, etc.

(3) Also, some 15 to 20 per cent of an average carcass consists of fat, bone and waste which the retailer can sell for no more than one-half a cent a pound salvage. A lot is simply thrown away.

(4) Obviously, if all cuts of beef were priced at the same level or markup, customers would buy nothing but the top cuts. Who would want to buy soup bone if it cost as much as a rib roast?

(5) Consequently, if some law were to compel a grocery retailer to charge the same price for every cut, here is what most assuredly would happen:

(a) The first customers in line in the

morning would take the limited number of more desirable steaks and roasts.

(b) Later customers would have to pay the same prices for the less desirable cuts or go without.

(c) A large proportion of the least desirable cuts couldn't be sold at all, and would be wasted.

(d) The expense of this waste would either have to be borne by the cuts of meat that did sell, by the customers, or the retailer would go out of business.

There is a little error here. I do not know whether the correct answer I am trying to find is 5 or 5½ cents. I said before in the brief that we paid 38 cents for the over-all carcass, and got 43. Here it indicates it is 5½ cents, which suggests that we got 43½. I have asked to have that checked. Then, to continue:

6. The gross profit made by Safeway on a typical 550-pound beef carcass amounts to only 5½ cents per pound. Out of this gross profit must come the wages of meat cutters, store rent, wrapping supplies, refrigeration expense, etc. Every pound of meat must be sold for what it will bring to make the meat

business yield even a small net profit.

(7) Every meat retailer knows that in order to sell the less desirable cuts of beef he must price them at levels low enough to make them attractive to customers. This means that even though he pays 38 cents a pound for a beef carcass, the retailer must price such cuts as briskets, short ribs, soup bone, etc., at prices substantially less than 38 cents per pound.

(8) The retailer is not voluntarily taking a loss when he prices certain cuts under 38 cents per pound. He has the choice of either pricing them low, or throwing them away.

(9) Because the retailer can get so little on many poorer cuts, and because he has to make up for the fact that a large part of the carcass is fat, bone and waste, the more desirable cuts must be priced high enough to give the retailer a small over-all profit on the beef carcass. That's one reason why many cuts sell at 50 cents to 75 cents a pound or even higher in some cases.

(10) Another very good reason some cuts sell at much higher prices than others is that it is of fundamental importance

in the retail meat business to maintain balanced movement of all carcass cuts. The relative prices on different cuts must be carefully related to consumer demand for the different cuts so that all cuts move in balance. None of the cuts must be left unsold, and no part of the carcass should sell out too fast. All customer demands must be satisfied.

(11) This brings up another point - the need for day to day flexibility in pricing.

If the movement of one cut slows down, the stock accumulates, the price of that cut must be reduced. In many instances meat starts to discolour and spoil after forty-eight hours, so prompt action must be taken.

Likewise, if a shift in consumer demand moves another cut too fast, the retailer has no practical alternative but to adjust that price upward in order to bring all prices into proper balance and maintain balanced carcass movement.

Changes in weather are perhaps the biggest cause of changes in relative consumer demand for different cuts, followed in importance by shifts to more expensive cuts due to increases in

income.

On a hot day, for instance, customers avoid roasts which require long cooking and heat up the kitchen. In winter, on the other hand, big roasts are in especial demand.

To deny meat retailers complete freedom to establish different prices on different cuts, and to vary these prices from day to day as necessary in order to balance supply with demand, would completely disrupt the retail meat business, and would raise retail meat prices as well as cause many inconveniences to customers.

The same principles of necessity for day to day price adjustments, and of need for pricing flexibility as are found in the meat end of the retail grocery business apply to retailing of produce and other groceries, though perhaps not as dramatically.

Special Promotion of Surplus Farm Products

Sometimes the freedom of grocery retailers to reduce their customary markups is very important to farmers in times of farm product surpluses.

On many occasions, farmers and organizations speaking for farmers have come to grocery retailers and asked the help

of grocers in increasing the sale of this or that farm product that was in distress on account of heavy supplies.

On such occasions, it is customary for retailers to put on special advertising and sales promotions, often at reduced margins, to themselves, but without asking the producer to take less money for his product. Such promotions not only help improve farm income by moving a larger supply into consumption but also help consumers by directing their attention to the fact that the surplus item is an especially good buy.

Many farm products have been given special promotional help by Safeway Stores in Canada during recent years. A typical example of such a promotion is given in the case of onions.

This past spring, the British Columbia Tree Fruits Board called on the Safeway division manager in Vancouver and stated that there was a surplus quantity of onions in storage from the 1953 crop year. The help of Safeway in pushing the sale of onions was requested so that farmers would not take a big loss.

Instructions were immediately dispatched to all Safeway zones in British

Columbia and Alberta requesting that an immediate advertising promotion of onions be undertaken and suggesting that customary margins be reduced.

Within a matter of days, several newspaper ads promoting onions were featured by Safeway and the retail margin was reduced to make onions especially attractive to consumers.

The result of this onion promotion was that more onions were sold and the B. C. fruit board manager subsequently called on Safeway and thanked the company for the special help given when needed by farmers.

There have been a large number of similar requests in the past from farmers and it is Safeway policy to do whatever it can to help when requested, whenever there is a genuine surplus.

We want to emphasize that an essential ingredient to the success of many of these special farmer-consumer surplus promotions is the freedom of the retailer to reduce his customary markup.

I did not see this before it went in. It is with apologies and with respect and deference I read this.

We cannot conceive of a government that would want to hurt farmers by denying to grocers the freedom to render

such merchandising assistance. Any legislation that would freeze retail grocery markups at some high level, or above some rigid minimum, would tend to tie retailers' hands when the farmer requested aid in moving surplus products.

XI
Past Progress in Grocery Retailing

The Commission, through a letter from its Secretary, has asked Safeway to comment as to the bearing upon consumer prices of cost-saving innovations in the distributive field.

The comment is simply this -- There have been literally thousands of such innovations and improvements in grocery retailing in recent years, the cumulative effect of which has been to lower food distribution costs substantially, hence saving consumers' money while at the same time making it possible to pay farmers more for their products than would otherwise have been the case.

Some of the improvements in retail grocery operations can be observed by shoppers, though the largest proportion of the improvements have been in work methods and so-called back-stage operations.

Better refrigeration, handling and packaging have reduced spoilage. Work methods

have been scientifically studied and simplified. The cleanliness, attractiveness and convenience of layout of stores have been improved. Consumers have been better served although at lower costs through widespread changeover to self-service. Large parking lots have helped make shopping easier. Generally, the efficiency of store operation has been improved. Customers are better served, volume of sales per store has been increased, and costs reduced.

As a consequence, although wage rates and equipment and building prices have been going up during the past several years, grocery retailers have been able mostly to offset these increases, to reduce their average percentage markup, and at the same time to continue to make a reasonable profit.

A few examples of some typical small, concrete cost-saving improvements are as follows:

(a) The scientific planning of the store, so that the merchandise can be moved from the back storeroom to the store shelves with a minimum of effort and waste steps;

(b) Scientifically designed shelves in stores so that they are easy to stock

as well as more convenient for customers.

(c) Scientifically designing the checkout stands in stores to handle a larger volume of merchandise in faster time -- by placing the scale, the cash register and the checkout stands in proper relationship to one another so that there is a minimum of motion by the checkout clerk;

(d) Use of an order invoice form with code numbers in place of cumbersome written reports to facilitate the ordering of merchandise by the store manager with the minimum expenditure of time. Time in making out orders was cut from ten hours to two hours thereby.

To illustrate the cumulative effect of such factors as the foregoing, here is a comparison of average realized markup percentages of Safeway stores in Canada twenty years ago with those in 1953 and 1954:

Realized Markups figured as per cent of sales, including cost of warehousing -

1933	24.5%
1934	20.1
1935	19.5
1936	18.9

1937	18.0%
1938	18.8
1953 (Vancouver only)	15.7
1954 (Vancouver only	16.4

THE CHAIRMAN: I think the increasing volume per store probably would be entitled to some of the credit for that.

MR. MacAULAY: Yes, perhaps so. The volume per store, and the higher prices. But if there is inflation, our expenses are paid with inflated dollars; our merchandise is bought with inflated dollars and our gross profit is in inflated dollars, and our net profit is in inflated dollars. Of course we say we go after more volume; but the volume is to some extent due to prices, as you mentioned yesterday, Mr. Chairman -- increased prices.

THE CHAIRMAN: I was thinking of the increased volume in goods rather than the increased volume in dollars.

MR. MacAULAY: That is true.

THE CHAIRMAN: Where it is increased volume in dollars your costs might go up in proportion.

MR. MacAULAY: That is right.

Then, to continue with the brief:

(Historical data for Safew·y was figured on basis of warehousing and retailing com ined, so current figures are shown on same basis in

order to give true comparison. Pre-retailing functions account for about 2 percentage points of the markup. Realized markups are the same as ordinary markups, except that they are reduced by the amount of spoilage and competitive mark-downs, etc.)

It is to be noted particularly that the reductions in markups in the past twenty years have been accomplished while at the same time retailers have been able to pay very substantial increases in wages. Wage costs constitute approximately 50 per cent of the cost of store operations. In Vancouver, in 1938, an experienced male grocery clerk was paid $22 for a work week of forty-eight hours. In 1954, the same clerk is paid $67.50 for a work week of forty hours. Wage rates have thus more than tripled. At the same time, there have been very substantial increases also in equipment and other costs.

The foregoing indicates that consumers purchasing at Safeway stores have benefitted substantially by reason of cost-saving improvements of past years. At the same time, we are confident that the future holds promise of many more such savings in

retail grocery operations. It is very possible that in the future grocers will do business profitably on average markups of 6 per cent to 8 per cent, or even less.

THE CHAIRMAN: Is that a prediction?

MR. MacAULAY: It is our opinion that that is the trend. And that is our hope. And when you were discussing yesterday the average markup, well, if you ever attempted to write into a statute an average markup of, let us say, 16 per cent, the efficient man would come along and, in six months, he could make it 15 per cent or possibly 14½ per cent. And by the time you got the law changed -- which usually takes some time, if it involves an amendment to a statute -- the consumer has been without the benefit of efficiency during that lengthy period. And there would be a continual race for an adjustment of markup. I suggest, with deference, that any suggestion like that is just not practical.

Then, to continue with the brief:

It cannot be too strongly emphasized, however, that such cost reductions can take place and be passed on to consumers only if retailers are not forced to adopt arbitrarily higher or rigid markups by some unfortunate legislation.

Any legislative attempt to establish a uniform or high markup, or any law

authorizing manufacturers to fix monopolistically high food prices through the device of resale price maintenance contracts, would be a blow to the development of more efficient grocery retailing.

The obvious interest of consumers and producers as well as retailers themselves in low food distribution costs provides compelling grounds for not introducing any legislative barriers to full progress in the retailing field.

THE CHAIRMAN: It is now about 11.30. You have been talking pretty continuously, Mr. MacAulay. Perhaps a break of five minutes would be welcomed.

MR. MacAULAY: Yes, it would be.

--- Recess

--- Upon resuming.

MR. MacAULAY: The first question asked by the Secretary in his letter to us was this: "Does Safeway receive a satisfactory return on cigarettes at 30 cents a package?" The next heading in this brief is devoted to the subject of cigarette profits, and it is as follows:

<u>Cigarette Profits</u>

The Commission has asked Safeway whether it obtains a satisfactory return on cigarettes at 30 cents a package.

We are happy to have the opportunity to make the record clear on this subject.

First, Safeway does not sell single packages of cigarettes at 30 cents.

However, for the prices Safeway obtains for cigarettes, whether sold in single packages at 31 cents, 3 packages at a time for 89 cents, or 10 packages at a time (by the carton) for $2.95, the company does obtain a satisfactory and reasonable profit.

What is more, to require any higher retail markups on cigarettes, hence higher prices to consumers, would deprive those customers who choose to buy their cigarettes at Safeway of the benefits of an efficient retailing system.

At the price of $2.95 per carton, Safeway makes a reasonable profit, and here is why:-

(a) The cost of a carton of cigarettes landed at the Safeway warehouse is $2.69. This leaves 26 cents to cover the expenses of warehousing, cartage to stores and retailing, plus a profit.

(b) By contrast, a carton of assorted individual cereals of about the same bulk and weight carries an upcharge of 5 2/3 cents over landed warehouse cost to cover the same functions.

(c) Even though percentagewise, cigarettes in cartons carry only an 8 per cent markup compared to 14 per cent for the cereals, it is plain that in dollar and cents terms, cartons of cigarettes have the larger spread, with 26 cents against 5 2/3 cents.

(d) When relative turnover is considered, we find that cigarettes are one of the fastest moving items in the store, even faster than variety packages of cereals.

(e) Another comparison shows the profitableness of cigarettes to Safeway at $2.95 a carton. The average ton of groceries costs Safeway $394 and sells for $463 -- a gross upcharge of about $69 per ton. (This figure is based on current tonnage and cost figures for Safeway in Vancouver). On the other hand, a ton of cigarettes costs Safeway $6,563 and sells for $7,198 -- an upcharge of $635. When the much greater gross per ton of cigarettes is considered, against their rapid turnover and ease of handling, it is obvious that cigarettes are much more profitable than the average grocery item stocked by Safeway Stores in Vancouver, even at $2.95 a carton. Any notion that Safeway is loss leadering

cigarettes has no foundation in fact.

You might be surprised that we refer to cigarettes in tons. But the trend in the grocery business is to weight. Many years ago, in the early days of our operations in Canada, bananas, oranges and all fruits were sold by the dozen. People who came in first got the larger oranges and the longer bananas, while those who came in later got the smaller oranges and the shorter bananas. But they all paid the
6) same price. And so, I believe Safeway can take credit for starting this sale of fruit by the pound rather than by the dozen.

THE CHAIRMAN: That does not apply to all the fruits, does it?

MR. KRAFT: All fruits and vegetables, except berries.

THE CHAIRMAN: Are oranges sold that way?

MR. KRAFT: By the pound.

THE CHAIRMAN: In some other chain stores oranges are not sold that way?

MR. KRAFT: That is not so in ours; it is all by weight.

MR. MacAULAY: Mr. Kraft telle me that they have complete tonnage records on everything they sell. We can tell how many tons of merchandise, including cigarettes, leave our warehouse each day. It does seem strange for the person who is not absolutely familiar with the

food business to hear talk about some of these articles in tons. But that is the up-to-date trend, to consider everything in tons, the number of tons of merchandise leaving a warehouse.

THE CHAIRMAN: Weight in proportion to bulk, and the number of transactions involved, enters into the picture?

MR. MacAULAY: Yes, that is right. Then, to continue with the brief:

Difficulties Involved in Establishing a Uniform Markup For All or Most Grocery Products

This is one of the questions regarding which the Commission through its Secretary has invited Safeway to make specific comment.

A uniform markup corresponding to the present average markup in a given store, would necessitate raising the prices on many food items, and particularly on the most necessary food items which customarily carry the lowest markups.

Of 2,889 items in a typical Safeway store in Vancouver, 1,095 items sell at less than the present average markup of 16 per cent. A uniform markup would therefore require that 38 per cent of the items sold by Safeway have their price increased.

Examples of price increases which would be required in the event the present average markup were made uniform for all items is as follows:

Item	Present Price	Price under uniform markup of 16%	Price Increases
Coffee	$ 1.37	$ 1.49	12¢
Sugar	.44	.46	2¢
Ground beef per lb.	.39	.44	5¢
Butter	.64	.67	3¢
Shortening	.28	.29	1¢
Bread (two 16-ounce loaves)	.25	.26	1¢
Etc.	Etc	Etc	Etc

Such increases in prices would obviously hurt consumers and force efficient grocery retailers to take larger profits than necessary. The greatest harm would be done to low income consumers, whose purchases consist substantially of staple items. It is these staple items which now carry the lowest markups and whose prices would have to be raised most if the average markup in a grocery store was made uniform for all products.

THE CHAIRMAN: You would have to reduce the markup on a lot of these, or you still would not have a uniform markup.

MR. MacAULAY: That is right.

THE CHAIRMAN: In order to get it uniform

if you merely raised those below the average and did not do anything with the higher ones, you would raise your average and still be out of line.

MR. MacAULAY: Yes, we would have to bring down the others. The mousetraps and the toothpicks would have to come down.

MR. FAVREAU: But your cost-of-living items would be raised?

MR. MacAULAY: Yes, the cost-of-living items would be raised. Then, to continue:

> Farmers also sould suffer by reason of the establishment of a uniform markup on food items. Because of the higher prices on staple items, purchases of these items would tend to be diminished, and the resulting reduction in consumption would reduce the farmers' market and the farmers' share of the consumer's food dollar.
>
> Also, as previously pointed out, the ability of grocery retailers to help farmers move surplus farm products would be reduced if the grocer's freedom to take less than a customary markup as the occasion demanded was impaired by legislation.
>
> The establishment of a uniform markup would make certain aspects of a retail grocery operation virtually

impossible to carry out. For example, a uniform markup applied to all cuts of a carcass of beef, would for the reasons mentioned earlier, completely disrupt the retail meat business to the detriment of both the farmer and consumer as well as the retail grocer.

And here is another statement I did not put in:

Certainly no government would want to do anything to hurt the sale of beef.

Uniform markups would also greatly increase spoilage losses in the retail store. In the final analysis the cost of such losses would be borne by consumers. The grocery business of necessity deals with a large proportion of perishables. It is the practice of every retailer, when he finds a perishable item not moving, and in danger of spoiling, to reduce the markup on that item below the average in order to clear the item from his shelves. For instance, if lettuce is not selling fast enough, right in the middle of the day the retailer is apt to make a price reduction to avert high spoilage losses. It is essential that the retailer have flexibility in his operations and the

ability to adjust his price in order to deal with these temporary day-to-day and hour-to-hour situations.

Another objection to a uniform markup both from the standpoint of the retailer and from the standpoint of the customers is that it would not be equitable to impose the same markup on a fast-moving item as would be carried by a slow-moving item. This is illustrated by comparison between the movement of canned milk and applesauce. As reported earlier for Vancouver, canned milk carries a markup of approximately 7½ per cent and sells at the rate of more than 400,000 cans weekly. Canned applesauce carries a markup of 17 per cent and sells at the rate of only 12,000 per week. Both items sell at the same price. Because of the much larger volume of sales, canned milk is a much more profitable item, in spite of its lower markup. If the markup on canned milk were raised to the same level as the markup on applesauce, the result would be an unfair profit rate levied upon the purchasers of canned milk. Safeway does not want to make an exorbitant profit on any item and strenuously objects to any legislation

that would have that effect.

THE CHAIRMAN: It might have the effect of reducing the price of canned milk.

MR. MacAULAY: The higher markup?

THE CHAIRMAN: Yes.

MR. MacAULAY: Yes, and that would mean perhaps that people who could not afford to pay for fresh milk would go without milk.

THE CHAIRMAN: There might be some effect of that kind, depending upon what the markup was.

MR. MacAULAY: Yes, that is true. We noticed here, then -- and that evidence was given before the milk board on different occasions -- that there were two increases in the price of milk here within a very short period of time, about two years ago. The sales of fresh milk dropped off very substantially immediately after the increases.

We gave evidence before the milk board of the increases in our sales of canned milk and powdered milk, that is, selling both kinds of fresh milk and having the information available from the records of the milk board as to what happened to per capita sales, what happened to total sales of fresh milk when the price increase was put into effect.

We were in a position then to bring before the milk board what happened to the sales of canned milk and powdered milk, and

there was a very, very drastic increase in the sales of canned milk and powdered milk as a result of the increase in the price of fresh milk.

THE CHAIRMAN: It might be of interest to the Commission, when we are considering the economic aspect of these things, as to whether you had a similar experience in Winnipeg where, I believe, the price of fluid milk is slightly below that which prevails here in Vancouver.

MR. MacAULAY: Mr. Chairman and gentlemen, I was going to suggest that you will recall that at one time I said I was going to have some difficulty in getting out to Vancouver to present the brief here, and I asked if it might be presented in Ottawa. Any questions that arise out of this hearing, or any data required which would help the Commission in any way, we would be happy to assemble and to present at the final hearing in Ottawa.

THE CHAIRMAN: This was just a question which occurred to me because the sales of canned milk in Vancouver are apparently very high. From what you have said, those sales increased very substantially immediately following the increase in the price of fluid milk.

I wondered if the experience had been of the same type and of the same order

in Winnipeg, where the price of fluid milk in the last few years has always been, I believe, a little bit below Vancouver.

MR. MacAULAY: We were able to notice it more here because I do not think in Winnipeg we ever had a two-cent increase in the price of milk to the consumer, at one time. But here they did. The increases in the sales of canned milk and powdered milk were more noticeable and more pronounced as a result of the increase to the extent of two cents. But Mr. McGavin has made a note of that and he will get that information.

THE CHAIRMAN: Thank you.

MR. MacAULAY: We will get those figures. The brief continues:

> In summary it is Safeway's view that the difficulties involved in establishing a uniform markup for all or most grocery products would cause great injury to efficient grocery retailing, would raise prices to consumers -- particularly on consumers' staple items, and would react to the detriment of farmers. We know of no actual attempt having been made in any other area to establish a uniform markup on all or most grocery products and we respectfully suggest it would be a mistake for this

Commission to suggest such an unfortunate type of law.

XIV
The Effect on Food Prices of Establishment of Minimum Markups

This also is one of the questions regarding which the Commission has requested Safeway to make specific comments.

If the minimum markup established by law were as high as the present average markup, the objectionable effects would be the same as those already described in respect to a compulsory uniform markup law.

To the extent that the minimum markups were established below the average markup the detrimental effects would continue to be present, but the damage would be less. However, in this connection it must be kept in mind that what might be an appropriate minimum markup level to write into legislation today, might turn out to be a restrictively high level tomorrow -- just as today's 16 per cent average markup would have seemed remarkably low twenty and more years ago. We must erect no arbitrary barriers to cost reductions in grocery retailing in the future. We should never say that in the future a

profitable efficiency level cannot be achieved below some arbitrary markup pe centage.

The basic effect of establishing a minimum markup would be to increase at least some food prices. If it were not desired to accomplish this result it would not be necessary to establish a minimum at all. Safeway submits that any proposal, the effect of which will be to require retailers arbitrarily to increase their markups and therefore increase food prices is bad in principle and contrary to the interests of both consumers and farmers as well as retailers themselves.

Some evidence of what happens to prices when minimum markup laws are passed is given in the case of the State of Kansas. V. W. Kebker, an authority on such laws, wrote in the "Journal of Marketing", July, 1942 issue, in an article entitled "Operation of the Unfair Trade Practices Act in the Large Cities of Kansas" that:

> "A comparison of advertised prices in two Kansas cities before and after the Kansas Unfair Trade Practices Act went into effect showed that the prices of 26 per cent of repeated

items were raised ..."

I question whether the expression "repeated items" is the proper one. I think it should read, "showed that the prices of 26 per cent of items were raised."

THE CHAIRMAN: That probably refers to items which were repeated in successive advertisements.

MR. MacAULAY: Possibly so; that is likely it. Then, to continue:

> Referring more specifically to the effect of the Kansas Minimum Price Law on food items, Mr. Kebker stated:
>
> > "The passage of a minimum markup law in Kansas was used by retail grocers as the excuse for a general price advance."
>
> The U. S. Federal Trade Commission reported elsewhere in a report in 1945 entitled "Resale Price Maintenance":
>
> > "It appears that a sound basis for criticism of the California Unfair Practices Act was because it led to an increase in prices of many staples other than those which had been alleged to be the basis of loss leader selling."
>
> The establishment of a minimum mark-up law would tend to establish an umbrella of protection over the less efficient

operators by preventing more efficient operators from passing on to consumers in the form of lower prices the full benefits of their cost saving methods, to the extent efficient retailers could do business profitably at less than the prescribed minimum.

I might observe at that point that recently -- as recently as Sunday -- I talked to an independent retailer from Saskatchewan. When he discovered that I was connected with Safeways I asked him if he had anything against Safeway and he said, "Oh no, it is Safeway that keeps us on our toes in our country." He said, "We market much more efficiently than we used to, as a result of that."

You will recall the bread inquiry in Winnipeg, where a number of independent retailers gave evidence. However three or four of them came into court, they stuck out their chests and said, "We can compete with any chain store. We are not afraid of chain store competition. We have this advantage, that we live in the neighbourhood, we are part of the neighbourhood, and the people will come to us in preference to the chain stores, if we give them the same prices."

And so I say the efficient retailer does not have to fear the chain store. I

repeat, "the efficient retailer" does not have to fear the chain store competition.

And in the same inquiry a gentleman who was then in charge of operations of Safeway in Winnipeg was asked what part of the United States he came from. He said he was born in Killarney, Manitoba. They asked him what he did in Killarney, Manitoba, and he said, "I was in the retail grocery business with my father."

"What happened?" He said, "We failed". "Where did you go then?" He said, "We went to Vancouver." "What did you do in Vancouver?" He said, "We went into the retail grocery business". "What did you do there?" He said, "We failed."

THE CHAIRMAN: He would have been a good man for Safeway.

MR. MacAULAY: They said, "What did you do then?" He said, "I went down to California and took a job with a chain store. Then I found out why we had failed in Killarney and in Vancouver. It was because we gave away half our money by giving credit, and we never took an inventory, and we never knew where we stood. If we had practised efficient methods of operation we would have been able to compete, and would still be in business in Killarney, I suppose."

But that is just an aside, if you

will pardon me. Then, the brief continues:

As pointed out by the United States Federal Trade Commission in its broad study of minimum price fixing laws:

"It should be noted that when a fixed minimum percentage margin is specified by law, it is not practicable to take into account differences in markets justified by factors such as differences in rapidity of stock turnover, quantity per sale, and relative price per unit of quantity per sale, and relative price per unit of quantity for different commodities, all of which affect both volume of sales in dollars and expense per dollar of sales accomplished by a bill of expenditure of sales effort. Neither can the fixed percentage margin take into account differences in efficiency among stores offering similar customer service."

One of the most frequently heard arguments in favour of enacting a minimum markup law is that such a law is required in order to prevent loss leader selling.

With this viewpoint we do not agree, particularly as applied to grocery retailing. In the first place, the proportion

of items allegedly sold as loss leaders is ridiculously low in comparison with the vast number of grocery items on the market today.

We especially draw attention to page 72 of the report by the Director of Investigation and Research under the Combines Act on "Loss Leader Selling" where he reports that he has received allegations of only twenty-nine separate loss leader grocery items -- based on information received from the retail grocery industry.

And I think I have covered that point in the next paragraph.

When these twenty-nine alleged loss leader items are viewed in light of the fact there are some 10,000 or more separate grocery items on the Canadian market, it can be seen that a mere twenty-nine items is only a very small fraction of one per cent!

Safeway can report from its own observations in western Canada that true loss leaders are very few in number in the retail grocery business in western Canada.

THE CHAIRMAN: I suppose those twenty-nine loss leader items, when weighted, in proportion to volume of sale, might be more or less

than this.

MR. MacAULAY: Might be more or less than this -- a small fraction of one per cent. It might conceivably be. I do not know that he lists them there, does he? However, the Commission is familiar with that statement in any event.

THE CHAIRMAN: Some items have such a large volume that it would not take a great many of them to run up considerably more than one per cent of total sales.

MR. MacAULAY: That is quite true. Then, to continue with the brief:

> After a wide-scale study of pricing in the United States in 1945, the United States Federal Trade Commission reported as follows:
>
> > "In general, sales below invoice cost are exceptional. Records of chain stores, department stores, supermarkets examined in the present inquiry indicate that although the average prices of such large distributors often were lower than those of independent stores before resale price maintenance became effective, those lower prices yielded substantial average gross margins over invoice cost of goods in all market areas visited." (See United States

Federal Trade Commission "Report on Resale Price Maintenance, 1945")

In the rare instances where loss leader selling does arise, Safeway considers that the best corrective is competition, not legislation prohibition. Retailers soon learn there is little customer lure in loss leaders and mainly losses when their loss leader prices are met by competitors. When such loss leader prices are met by other grocers, such prices are stripped of their special attraction for the customer.

THE CHAIRMAN: Do you suggest that the knowledge that cut prices will be met is a deterrent?

MR. MacAULAY: Yes, absolutely.

THE CHAIRMAN: Your policy of meeting such competition you would think probably has the effect of reducing the frequency of loss leaders?

MR. MacAULAY: Yes, it is a great corrective. They find that if they go down today and we find it out -- and we take means of finding it out; we have facilities for finding it out. A man is not down very long, perhaps only a portion of a day, before we know about it. And when his price is met almost immediately -- well, any benefit to him is gone.

And he thinks twice before he starts doing that again. Because he does not want to sell at a loss.

I heard of an instance in the United States where a large market advertised a very low price, and the competitor said, in the newspaper, "This fellow is going to sell at such and such a price on such and such a day. We will buy from all our customers those food items he is advertising at the price that they should be, the proper price."

The customers stormed in on him in the morning, gathered up all his goods, and took them over to the competitive store and sold them, and made a profit. You see competition, when it is operating, is the greatest possible deterrent.

Then, to continue with the brief:

> Competitors have another very effective cure for loss leader selling.
>
> When a given retailer offers to sell a given item at less than the wholesale cost, it is very effective for his competitors to advertise that they will purchase from consumers all supplies of that particular loss leader item at the going wholesale price. Competitors lose nothing by offering to purchase such commodities at the normal wholesale price. Ordinarily, the store offering the loss leader

suffers heavy losses by selling to customers who buy for resale. Moreover, his customers tend to make their purchases in the store of the competitor who buys back the particular commodity which the offending retailer has been loss leadering. After a few unfortunate experiences like this, few retailers have much desire for loss leadering.

Consumers quickly become aware of deceptive pricing practices. It is interesting in this respect to note the evidence given before the Commission by the Canadian Association of Consumers, indicating that price is the most important factor in influencing a consumer's decision, and that consumers quickly become aware of the real values in commodities being offered for sale by competing retailers. Customers' knowledge of prices and values is particularly well developed with respect to food items which are bought almost daily by the average consumer.

I think women spend 95 per cent of our money -- indeed, sometimes I think they spend more than 95 per cent of our money.

THE CHAIRMAN: Are you thinking of any particular women?

MR. MacAULAY: None in particular, Mr. Chairman. The women buy all the food, and one does not fool them very much or very often. They are quite price conscious, and I do not think any retailer is going to fool many women shoppers for any great length of time.

Then, to continue with the brief:

> Safeway's operations have been consistently based upon the principle that day in and day out low prices, sufficient to yield a reasonable profit, are unquestionably the best method of attracting customers and keeping them. Safeway considers that what success it has had in the retail merchandise field provides evidence of the soundness of this policy.
>
> Safeway's experience in the United States indicates that even when laws are in existence to protect against loss leader selling, loss leader selling will break out from time to time. Almost invariably such situations are corrected by the competitive action of other retailers, rather than by enforcement of minimum markup laws.
>
> Furthermore, minimum markup legislation tends to discriminate against reputable retailers. When a retailer cuts prices below legal minima with the intent or purpose of injuring or destroying

competition his competitors are faced with the dilemma as to whether they should meet his competition and assume the risk of being charged with violations of the law, or refrain from doing so and suffer a loss in competitive position. In a case such as this, Safeway's position is that when a retailer meets a competitive price in good faith, he is doing nothing more than protecting his competitive position and is not violating a minimum markup law.

Many experts who have studied so-called anti-loss leader laws in the United States have come to the conclusion that such laws are seldom enforced against the little operators who actually do most of the loss leadering. For instance, Professor E. T. Grether of Stanford University reported in the 1937 issue of the "Journal of Marketing", under the subject "Fair Trade Legislation Restricting Price Cutting":

> "It is much easier to obtain evidence against and control large-scale operators whose selling activities must be more highly public and open."

We submit that the best cure for what little loss leadering does exist in grocery

retailing is to allow retailers complete freedom to meet any and all competitive prices.

There is one more type of situation that is a source of great inequity under a law prohibiting sales below a minimum markup. This disadvantage is one which would work more to the injury of the small retailer than anyone else, we believe.

If a given retailer makes an especially good buy, by reason of particular economic circumstances, but in full compliance with all legal requirements, it becomes possible for him to sell at a low price while still observing the minimum prescribed markup. Now, competitors who may not have bought as cheaply in that particular case are thereby required by law to sell at a higher price, since the minimum allowed markup applied to a higher cost price produces a higher selling price.

We submit that it is very unfair by law to give special protection from competition to any retailer who happens to make an especially good buy in the above described circumstances. This would be tantamount to creating a monopoly situation by law.

Provincial legislation is at present in effect in Manitoba, Alberta and in British Columbia, prescribing minimum markups on certain food items. (In Manitoba, fresh meats and produce are not covered by this law.) Safeway's experience is that there is no loss leader selling of any consequence in any of the western Canadian provinces in which it operates, but it considers that this situation cannot be considered to be the result of the legislation in effect. For example, in British Columbia the legislation applies to the sale of meat, but in Manitoba the sale of meat is excluded from the scope of the legislation. Nevertheless, in Manitoba there is no loss leadering of meat even where not phohibited by law. Also, there is no significant loss leader selling in Saskatchewan even though they have no minimum markups or related legislation.

THE CHAIRMAN: You are fairly familiar with this situation. Do you know of any case in any of these provinces where any proceedings have been taken under any of these Acts?

MR. MacAULAY: No, I do not know of any. In appearing before the milk board and asking for the removal of controls, I pointed to the legislation and I said that there is a

statute which says that you cannot sell at
19 less than 5 per cent above cost.

THE CHAIRMAN: Yes, whatever that means.

MR. MacAULAY: Yes, whatever it means. And it is very difficult to prove cost -- it is very difficult to prove this and that. But, notwithstanding the fact that the Act is not enforced, and that there are difficulties in connection with enforcement, in carrying on our operations we have always endeavoured to live within the spirit of the legislation.

THE CHAIRMAN: I was wondering if you had any comments to make as to whether the pp
lack of enforcement is due to any difficulty in enforcement, or infrequent occasions when there was any reason to seek enforcement.

MR. MacAULAY: I think you are in the best position to answer that question, Mr. Chairman.

THE CHAIRMAN: I am just asking for your opinion, as a man who is in the business.

MR. MacAULAY: Well, I throw my mind back to the time when Manitoba passed the legislation. There was a gentleman who owned a newspaper who suggested that he could establish that certain businesses were breaking this law. He came into my office one morning with a thousand copies of the paper he printed, and he said, "You can buy these for $750, and if

you do not buy them I am going to distribute them." I said, "Well, you had better go ahead and distribute them."

Now, in the province of Manitoba -- and, Mr. Chairman, I think I am telling you something you know better than I do -- the legislation was passed and there was a suggestion made that there were some breaches of the Act. The Attorney General of that province was asked to enforce the legislation. He sa He stated that he had told the retail trade that he would pass the legislation, or have it put on the statute books, but that he was not going to take the responsibility for the enforcement of it, because you would need a whole raft of inspectors. He pointed out that the cost of enforcement would be very, very substantial.

That is my recollection of what happened in Winnipeg shortly after the legislation was passed. That is, the Attorney General said that they were not going to assume the expense of attempting to enforce the legislation. I think perhaps you were not the Attorney General at the time.

THE CHAIRMAN: No.

MR. FAVREAU: I was going to ask when the legislation was passed.

Mr. MacAULAY: I think the legislation was passed in 1936, in Manitoba -- or 1937.

In any event, it was passed in the thirties.

THE CHAIRMAN: I think it was the session of 1937-38.

MR. MacAULAY: Yes. But we never seem to hear anything about loss leaders in Winnipeg. Nobody is ever accused of selling at less than the 5 per cent above markup -- or only very occasionally.

THE CHAIRMAN: No, there were certainly no charges I ever heard of -- and I think for a period of some years I would have heard of them -- that the Act was being broken.

MR. MacAULAY: I think everybody endeavours to live within the spirit of the Act; and I think perhaps if Mr. Kraft ever discussed the situation with me, either in Manitoba or British Columbia, I would draw attention to the fact that the Act is there and I would say, "No selling at less than 5 per cent." Is that the advice you have received?

MR. KRAFT: That is right.

MR. MacAULAY: On many occasions. So that although the Act is not enforced, everybody seems to observe the spirit of it -- except on rare occasions.

THE CHAIRMAN: Of course, if they all observed the spirit of it there would never be any occasion to enforce it.

MR. MacAULAY: That is right -- and I do not think there is.

MR. FAVREAU: Of course some of the dealers, either here or elsewhere, told us that they were somewhat reluctant to act as denouncers or informers or squealers against their colleagues.

MR. MacAULAY: I heard that statement made yesterday. The Commission inquired why, and they said, "We do not want to go and squeal on somebody else." Then you drew attention to the fact that there was provision for the appointment of inspectors under the British Columbia Act.

Well, we say that loss leadering in western Canada is practically non-existent. That is, if there is any of it, it is corrected immediately by competition. And the different retailer organizations -- and I am talking only about the food business -- know each other pretty well. This fellow knows that if he ever goes down and tries to do this, that his price will be met and all it will mean is a loss. And so they do not attempt loss leadering.

Then, to continue the brief:

> The foregoing indicates Safeway's views that loss leader selling designed for the purpose of attracting customers can most effectively be dealt with by permitting competition to operate freely.

The situation would be different if systematic loss leader selling were used with the intention of destroying competition and ultimately forcing a particular competitor or competitors out of business. It is Safeway's submission that in such circumstances the present anti-monopoly legislation contained in section 498A (c) of the Criminal Code provides an adequate safeguard. This section makes it an offence for anyone to engage in the policy of selling goods at prices unreasonably low having or designed to have the effect of substantially lessening competition or eliminating a competitor.

Detrimental Effects on Food Prices and Grocery Retailing of Resale Price Maintenance

The Commission has asked for Safeway's views on what effect a resale price maintenance law would have on food prices.

We think a resale price maintenance law would raise food prices. What is more, while the consumer paid more, the farmer would get less. We can think of nothing that would be less satisfactory.

In a typical Safeway grocery store, some 50 per cent to 65 per cent of all items sold are branded, hence subject to

arbitrary price fixing by the manufacturers, if a resale price maintenance law were passed. (The foregoing estimate is based on the fact that about 60 per cent to 70 per cent of the volume of an average Safeway store consists of grocery section items and more than 90 per cent of these are branded, hence potentially subject to resale price maintenance).

We even find such items as meats carrying brand names -- as Swift's Premium Ham, for instance.

Resale price maintenance would protect inefficient grocery retailers and penalize the efficient.

Resale price maintenance would prevent passing on to consumers the benefits of cost saving methods of doing business. All retailers would have to charge the same price on any item a given food processor or manufacturer chose to bring under a resale price maintenance contract.

One of the most objectionable aspects of permitting price fixing on branded food products by processors or manufacturers is that it gives such firms a type of monopoly power over prices. Conspiracies and combinations to fix prices have always been considered against the public interest.

I refer to the case I mentioned this morning where we took the stand that where we buy goods they are ours, and that we were going to sell them for what we thought they should bring. And the result was that we found ourselves without goods.

Then, to continue:

> Yet we are now confronted with demands that they be legalized. As a former Assistant Attorney General of the United States, the Hon. Thurman W. Arnold, reported to the U. S. Congress in 1941, speaking of a resale price maintenance law:
>
> > "This amendment has been in effect a little more than three years. Already the record shows that it does not serve the purposes for which its passage was urged upon Congress; that it sanctions arrangements inconsistent with the purpose of the antitrust laws and that it becomes a cloak for many conspiracies in restraint of trade which go far beyond the limits established in the amendment."
>
> Furthermore, the Temporary National Economic Committee of the Congress of the United States formally reported on March 31, 1941:
>
> > "The Miller-Tydings Enabling Act,

> which legalizes resale price maintenance in interstate commerce, results in some of those economic and social practices to be expected from private price-fixing conspiracies. The legal sanction of such practices tends to undermine the basic tenets of a competitive economy and introduces rigidities into the pricing of certain goods which restrain trade."

Safeway considers that increased prices would be the inevitable result of the legalization of resale price maintenance, since the whole purpose of this device is to restrict competition by setting prices sufficiently high to give the less efficient operator a profit.

We would like to point out that there are many booby-traps for both manufacturers and retailers in resale price maintenance legislation.

While some retailers may at first be attracted by the idea that resale price maintenance will assure them of larger markups, it should be noted that certain unexpected and less desirable results may occur as well. And this has been said many times during the hearings.

The first thing that would likely

happen if markups were set at high levels is that many new firms would be attracted to the business where profits seemed practically assured. It is comparatively easy to open a new grocery store. Equipment is uncomplicated and capital requirements low, as compared with, say, manufacturing. Locations are not hard to find. The ease of entry into the retail grocery business is shown by the fact that so many new retail grocery firms spring into being each year.

Next, as the market became oversaturated with new stores, the volume of all existing merchants would go down. Next, handling costs would increase per ton of merchandise, due to smaller volumes. Soon, the costs of each store would likely fall to the point where the existing guaranteed margins and prices once again would become inadequate to bring a reasonable profit. So next would come renewed demands for raising markups in order to make business profitable at the reduced volume.

Thus would begin a vicious spiral; ever falling volume of business, ever increasing costs of operation, ever smaller profits, new demands for still

higher fixed markups and fixed prices -- which starts the spiral all over again.

THE CHAIRMAN: Unless somebody took a stand against it.

MR. MacAULAY: Yes.

THE CHAIRMAN: If a manufacturer said, "We will not raise the retail price", then some would go out of business, and the spiral would stop.

MR. MacAULAY: Yes, but why be in a position where the spiral gets a chance to begin? Then, continuing with the brief:

> In short, recourse to legislation and resale price maintenance is not the road to salvation for a retailer who finds competition difficult.
>
> Manufacturers who took advantage of a resale price maintenance law and fixed prices higher than they are in today's free market would also be inviting their own destruction. First, a perfect opportunity would be created for competitors to step in and undersell. Second, an open invitation would be extended to importers to bring in competing products from abroad. In short, resale price maintenance may not be the salvation for their troubles that some manufacturers would like to expect.
>
> Resale price maintenance is sometimes

advocated as a cure for loss leader selling. Actually, this talk about loss leaders is mostly shadow-boxing. In the retail grocery trade in western Canada, certainly, there is an insignificant amount of loss leadering. Actually, those advocating resale price maintenance want guaranteed high markups.

In the United States, the same argument has been used, that resale price maintenance is needed to outlaw loss leader selling. The U. S. Federal Trade Commission showed the falsity of this position in its 1945 comprehensive report on "Resale Price Maintenance", where it said:

> "The records of chain stores, department stores and supermarkets examined in the present inquiry indicate that although the average prices of such large distributors often were lower than those of independent stores before resale price maintenance became effective, those lower prices yielded substantial average gross margins over invoice cost of goods in all market areas visited."

Representations have been made to the Commission in previous submissions

protesting against the practice of deceptive advertising sometimes involved in loss-leader selling, either by way of having inadequate stocks or by way of refusal to sell at the advertised price. It has invariably been suggested as a remedy for such practices that resale price maintenance be legalized, or that legislation be enacted requiring minimum markups.

Safeway submits that the best method of curbing any such practices of deceptive advertising is not by way of requiring the retailer to charge minimum markups for merchandise sold, but rather to attack the practice of deceptive advertising either by enforcement of existing law, or if this is inadequate at present, then by enacting legislation which will effectively curb such deceptive advertising. In other words, attack the evil of deceptive advertising itself and leave loss leader prices to be corrected by competitive forces.

Safeway submits that legalization of resale price maintenance would not have the desired effect and that furthermore it would lead to a return of the problems and difficulties which the legislation prohibiting resale price maintenance was

designed to eliminate.

The subject of resale price maintenance has been given close scrutiny in recent years by various commissions as well as by the Dominion Parliament.

The Royal Commission on Prices states, in Vol. I of its 1949 report, as follows:

> "From a general acceptance of a system of fixed percentage markups, it is an easy step to a policy of resale price maintenance, whereby a manufacturer sets the retail price at which his product may be sold and which increases the rigidities of the whole marketing structure.
>
> It is claimed that such a policy by the manufacturer avoids 'confusion in the trade' and protects the small retailer from predatory price-cutting by large distributors. The danger of such practices lies in the tendency towards a gradual removal of all reasonable price competition at the dealer's level and leads to additional demands for control over new entrants to the trade so that the advantages of a guaranteed margin need not be shared. From the examples we have examined, it appears that as a whole the disadvantages to the buying

> public greatly exceed any possible advantages.
>
> Resale price maintenance, like other forms of restrictive practices, does offer what appears to the manufacturer and distributor to be a happy relief from the unending struggle against the harsh correctives of the free market system. But the solution, we think, is illusory. It not only vitiates the spirit of enterprise by which all commercial and industrial life is nourished, it deprives the consumer of his right to seek out and patronize the more efficient distributors, namely, those who over a period of time can offer goods for sale at prices lower than their competitors."

People who have had an umbrella held over their heads for years and who have been doing business in an easy way have not had to submit to competitive forces. Life has become easy. There is always objection when the umbrella is removed. Goodness, the fight that is put up in different jurisdictions after you have had a milk board fixing consumer prices by distributors, where they did not have to get out and compete, but just had to go ahead and sell their product

and collect their money -- well, there is of course great opposition to the removal of a situation where, instead of being under an umbrella, you have to get out and compete. And there is always vigorous remonstrance against any such removal. He refers here to "what appears to the manufacturer and distributor to be a happy relief from the unending struggle against the harsh correctives of the free market system."

Correctives of the free market system are harsh, and thank goodness they are. Thank goodness they are, because that is the incentive that provides initiative. The mushroom grows under a stone, and it is soft. But something else that is exposed to all the wilds and furies of nature is strong. And if you have enjoyed this happy relief from unending struggle, well, you hate to see that relief being removed.

Nevertheless, what is in the interests of the consuming public is that there be plenty of free enterprise and competition. And, if there is any loss leadering, let it be corrected by competitive methods.

Then, to continue with the brief:

> The committee to study combines legislation in its 1951 report on resale price maintenance also condemned this practice. The committee had

invited representations on the subject and received a great many briefs. In its report, it reviews in detail the various arguments presented to it and then states its own general conclusions as follows:

> "The Committee has studied resale price maintenance in the light of the two standards of judgment originally set up, namely, the desirability of a free economy and the need for economic efficiency. This study has led the Committee to the general conclusion that resale price maintenance, on the growing scale now practised, is not justified by either of these standards. It represents a real and undesirable restriction on competition by private agreement or 'law' and its general tendency is to discourage economic efficiency. That is why in our opinion the prescription and the enforcement of minimum resale prices must be viewed as manifestations of a restrictive or monopolistic practice which does not promote general welfare.
>
> The Committee therefore recommends that it should be made an offence for a manufacturer or other supplier
>
> 1. To recommend or prescribe minimum resale prices for his products;

2. To refuse to sell, to withdraw a franchise, or to take any other form of action as a means of enforcing minimum resale prices."

And that is just as true today as it was when it was written.

Safeway considers that the above quoted conclusions reached by two separate investigating bodies on the subject of resale price maintenance are sound and proper, and that no change in the situation has resulted since the enactment of the legislation by the Dominion Parliament in 1951-52 prohibiting resale price maintenance which would justify any interference with the legislation. Safeway is not aware of any evidence having been presented to this Commission in its present series of sittings which would justify any such interference.

Summary and Conclusions

1. Loss leader selling is negligible in extent and effect in the grocery retailing business in western Canada.

2. Safeway has followed the proceedings before the Commission in this inquiry and submits with respect that no true loss leader selling situation exists in grocery retailing which requires correction by legislative action.

3. In the suggestions which have been made to the Commission to remedy alleged loss leader situations distinction must be drawn between those representations which are based upon a genuine desire to limit loss leader selling and other representations based upon a desire to guarantee a fixed markup as a protection to the retailer against free and open competition. The latter representations are not sufficient justification for the enactment of legislation.

4 True loss leader selling to the small extent to which it may exist can best be corrected by freely operating competitive forces in the trade itself, and not by legislative prohibition. Any attempted correction by legislative prohibition would do more harm than good by raising food prices with consequent unfortunate effects upon consumers, producers and retailers.

5. Any attempt to establish by law a uniform markup would be quite impractical and would unquestionably raise prices of staple foods thereby affecting adversely the low income groups in particular. It would be a very retrograde step in the retail grocery business.

6. Minimum markup legislation to the extent that it is effective would tend to

have the same results as legislation requiring uniform markups. It would tend to hinder progress in the retail distribution field and by protecting the less efficient retailer, it would prevent the more efficient retailers from passing on to consumers the economies resulting from such efficiency. Experience, however, shows that such legislation as does exist is largely ineffective and extremely difficult to enforce. There is no adequate justification for additional legislation of this nature.

7. Resale price maintenance in Canada has been found by the MacQuarrie Commission in 1951 not to promote general welfare since it represents a real and undesirable restriction on competition by private agreement and its general tendency is to discourage economic efficiency. Following this report, resale price maintenance was made illegal in Canada. A period of readjustment has necessarily ensued. The protests to this Commission of those who previously enjoyed the protection of resale price maintenance, but who since 1952 have been subjected to the rigors of competition do not provide justification for ignoring the findings of the MacQuarrie Commission and

the decision of Parliament to outlaw this essentially restrictive and monopolistic practice.

8. Consumers and producers have a basic and fundamental interest in the continuance of competition and the encouragement of economic efficiency in the retail distribution field. The safeguarding of these principles and the resultant lowering of food distribution costs are vital interests of consumers and producers which in the long run far outweigh any temporary difficulties of adjustment by some retailers to competitive forces.

9. Safeway is opposed to any legislation that would have the effect of raising food prices by arbitrarily requiring grocery retailers to take more than a reasonable profit.

Now, that is our brief. Then, during the reading of this brief I have referred to Appendix A and Appendix B, and I think I have also referred to Appendix C and Appendix D. Appendices A, B and C are as follows:

ANALYSIS OF RETAIL MARKUPS OF SAFEWAY STORE ITEMS

Winnipeg Area, June 14, 1954

Markup Category %	Grocery Items	Produce Items	Meat Items	All Items Combined
6 & under	20	0	7	27
6.1 - 7	11	0	1	12
7.1 - 8	16	0	3	19
8.1 - 9	21	0	1	22
9.1 - 10	30	1	1	32
10.1 - 11	24	0	2	26
11.1 - 12	85	0	7	92
12.1 - 13	71	0	2	73
13.1 - 14	126	2	8	136
14.1 - 15	167	0	11	178
15.1 - 16	184	0	6	190
16.1 - 17	190	1	8	199
17.1 - 18	181	0	12	193
18.1 - 19	142	1	9	152
19.1 - 20	137	0	12	149
20.1 - 21	104	2	20	126
21.1 - 22	63	0	9	72
22.1 - 23	77	3	10	90
23.1 - 24	83	8	12	103
24.1 - 25	81	4	3	88
25.1 - 26	54	4	16	74
26.1 - 27	41	8	10	59
27.1 - 28	35	8	11	54
28.1 - 29	35	4	5	44
29.1 - 30	40	2	10	52

APPENDIX "A"

(cont.d)

30.1 - 32	20	4	4	28
31.1 - 32	53	4	6	63
32.1 - 33	16	4	4	24
33.1 - 34	25	2	6	33
34.1 - 35	24	3	1	28
35 & over	142	4	21	167
TOTALS	2,298	69	238	2,605

Based on Winnipeg Store Prices, June 14, 1954

The following food items are those whose prices are collected and reported regularly by the Government of the Dominion of Canada. They are a representative cross-section of the foods consumed regularly by an average Canadian family.

Name of Commodity	Unit of Sale	Grade or Brand	Retail Price	Markup
Butter	1 lb.	Creamery 1st Gr.	.59	5¼%
Coffee	1 lb.bag	Nob Hill	1.29	6%
Eggs	1 doz	Grade A Fresh	.45	7%
Milk	1 qt.ctn	Fresh	.19	8%
Milk,Evap.	16 oz tin	Cherub	3/47¢	8%
Cheese,Mild Canadian	Bulk-1 lb	Berkshire	.48	8%
Shortening	1 lb.	Domestic	.29	9½%
Margarine	1 lb	Rose	.28	10%
Lard, Pure	1 lb	Maple Leaf	.22	11%
Bread,Plain White, Wrapped, Slice	16 oz loaf	Polly Ann	2/27¢	11%
Bread,Plain White,wrapped, unsliced	16 oz loaf	Polly Ann	2/27¢	11%
Soap	Toilet Bar	Lux	3/29¢	13%
Sugar	10 lb bag	Manitoba	1.03	13%
Soup,Veg.	10 oz tin	Campbells	2/27¢	13%
Peas,choice,Size 4 to 5	15 oz tin	Taste Tells	.15	13½%
Beans,Baked with Pork	15 oz tin	Taste Tells	.14	13½%
Smoked Picnic,Shankless	1 lb		.58	14%
Smoked Ham Butt or half	1 lb	pre-cooked	.84	14%

APPENDIX "B"

(cont.d)

Name of Commodity	Unit of Sale	Grade of Brand	Retail Price	Markup
Marmalade, Orange	2 lb tin	Empress	.41	14%
Chicken	1 lb	Grade A Milk Fed Capon	.49	14%
Pork Hockless Shoulder	1 lb		.49	14½%
Detergent, Synthetic	large box	Cheer	.41	14½%
Peaches,Choice Halves	15 oz tin	Halves of Gold	.22	14½%
Soap Flakes or powder	Large	Ivory	.40	15%
Sardines Plain, oil	3½ oz tin	Domestic	.09	15%
Macaroni,Dry	16 oz pkg		.17	15%
Peanut Butter Plain	16 oz jar	Beverley	.34	15½%
Veal,average all cuts				16%
Flour	5 lb bag	Kitchen Craft	.35	16%
Soap,Lndry	10 oz bar	Ivory	2/21¢	16%
Cocoa,Pure	½ lb tin	Frys	.80	16%
Flour,White (All Purp.)	5 lb bag	Kitchen Craft	.35	16%
Infant Food Veg.	5 oz	Heinz	4/39¢	16%
Orange Juice	20 oz tin	Full of Gold	.14	16%
Rolled Oats, Reg, Quick	3 lb pkg	Ogilvies	.32	16½%
Chocolate Bars, Plain	Bar	Cadbury	6/27¢	16½%
Beef,average all cuts				17%
Tea,Black Med. Quality	1 lb	Salada	1.00	17%

APPENDIX "B"
(cont.d,

Name of Commodity	Unit of Sale	Grade of Brand	Retail Price	Markup
Cake Mix, White	16 oz pkg	Ogilvie	.31	17%
Bacon,Fancy Side,Slice Rind Off	1 lb pkg	Swifts Prem.	.98	17%
Cheese, Pl. Processed	½ lb pkg	Velveeta	.35	17%
Soft Drinks (exclude bottle dep.)	6-10 oz ctn	Coca-Cola	.36	17%
Pure Pork Sausage	1 lb		.53	17%
Bologna	lb		.29	17%
AVERAGE MARKUP ALL ITEMS COMBINED				17.25%

Safeway Markups on Basic Food Items (cont'd)

Jam,Strawber.	2 lb tin	Empress	.63	17½%
Rice,1st Gr.	16 oz pkg	Delta Long	.22	17½%
Pickles,Sweet Mix	16 oz jar	Dysons	.35	17½%
Prunes,Med. Size	16 oz	40/50's	.30	17½%
Corn Flakes	12 oz	Kelloggs	.26	18%
Salmon,Sockeye	½ lb tin	Court Fancy	.37	18%
Corn Syrup	2 lb tin	Crown	.35	18%
Strawberries Frozen,Chce	15 oz tin	Cudney	.44	18%
Cleanser,Pwd.	Tin	Old Dutch	2/29¢	19%
Salmon,Canned Fancy,Pink	½ lb tin	Prince Leo	.23	19½%
Tomatoes,Chc.	28 oz tin		.20	19½%
Raisins, Seedless	16 oz	Australian	.25	20%
Apple Juice Choice	20 oz tin	Westfair	2/35¢	20%

Name of Commodity	Unit of Sale	Grade of Brand	Retail Price	Markup
Floor Wax - Paste	1 lb tin	Johnsons	.59	20%
Brapefruit Juice,Fcy.	20 oz tin	Townhouse	.13	20%
Corn,Cream choice	15 oz	Taste Tells	.13	20½%
Beans,Any Common white bulk or bag	1 lb		.18	21%
Broom,Med. Quality 5 string	Each	Touchcraft	1.55	21%
Carrots,Bulk Tops off	lb	Imported	2/19¢	21%
Toilet Paper Roll about 650 sheets	Roll	Westminster	2/21¢	21½%
Raisins, Calif. seedless	15 oz pkg		.25	22%
Cod Fillets Fresh	lb		.33	22%
Lamb,average all cuts				23%
Salt,fine tbl	2 lb box	Windsor	.14	23%
Green Peas frozen	12 oz	Aylmer	.22	23%
Apples,eat.	lb	Winesap	2/35¢	23%
Bananas,Yellow	1 lb		.21	23½%
Wax Paper,100'	box	Handiwrap	.31	23½%
Halibut Steak	lb		.42	23½%
Bleach,Liquid concentrate	16 oz btl.	Javex	.21	24%
Oranges, California	lb	Imported 344 or 288	2/29¢	24%
Cabbage	lb	Imported	3/20¢	24½%
Grapefruit White	lb	Florida 96 - 80	3/32¢	25%

APPENDIX "B"

(cont.d)

Name of Commodity	Unit of Sale	Grade of Brand	Retail Price	Markup
Celery Stalks green	lb	Imported	.16	25%
Lettuce, head fresh	lb	Imported	.19	25%
Pork Chops Centre Loin	lb		.82	25½%
Tomatoes, Fresh Field	lb	Imported	2/27¢	26%
Cookies - Vanilla Flavored Sweet, no filling or icing	8 oz pkg	Christies	.25	26½%
Cod, Smoked fillets	lb		.47	27%
Onions, No.1 Cooking	lb	Imported	2/15¢	27½%
Lemons, Cal.		Imported 300-360	.19	31%
Light Bulbs frosted	60 watt		.20	40%

SAFEWAY MARKUPS ON BASIC FOOD ITEMS

Based on Vancouver Store Prices, June 8, 1954

The following food items are those whose prices are collected and reported regularly by the Government of the Dominion of Canada. They are a representative cross-section of the foods consumed regularly by an average Canadian family.

Name of Commodity	Unit of Sale	Grade or Brand, Etc.	Retail Price	Markup
Milk, fresh, qt	1 qt. carton		.20	
Soap flakes or powder large, not giant	box	Ivory	.37	6½%
Flour	7 lb bag	Wild Rose	.53	6½%
Corn, cream choice	15 oz tin	Taste Tells	2/23¢	7%
Coffee	1 lb bag	Nob Hill	1.37	8½%
Peanut Butter, plain	16 oz jar	Beverly	.33	8½%
Soap, laundry	10 oz bar	Ivory	2/31¢	9%
Butter, creamery, 1st gr.	1 lb	Prints	.64	9%
Tea, black med. qual.	1 lb pkg	Salada	.95	9½%
Veal, average all cuts				11%
Corn flakes	8 oz pkg	Kelloggs	2/33¢	11%
Detergent, synthetic	large box	Cheer	.40	11%
Soap, toilet bar med. quality & size	med. bar	Lux	3/29¢	11%
Cod, smoked	lb	Local	.35	11%

Name of Commodity	Unit of Sale	Grade or Brand,	Retail Price	Markup
Smoked Pic-nics,bone in	lb		.49	11%
Salt,fine tbl.	2 lb box	Windsor	2/25¢	11½%
Sugar,granu.	5 lb bag	B. C.	.44	11½%
Raisins, seedless	16 oz		.20	12%
Salmon, Sockeye Gr.A	½ lb tin	Court Fancy	.35	12%
Soup, veget	10 oz tin	Campbell's	2/27¢	12%
Cocoa,pure	½ lb tin		.42	12½%
Lard,pure	1 lb	North Star	2/49¢	12½%
Milk, evap.	16 oz tin	Pacific	2/31¢	12½%
Rolled Oats, regular & quick	3 lb pkg	Quaker	.33	12½%
Sardines, plain,pack-ed in oil	3½ oz tin	Brunswick	3/27¢	12½%
Shortening	1 lb	Domestic	.28	12½%
Eggs,fresh Gr.A, large	1 doz		.55	12½%
Margarine	1 lb	Parkay	2/79¢	12½%
Cake Mix, white	16 oz pkg	Little Dipper	2/49¢	13%
Cleanser Pwd.	tin	Old Dutch	.14	13%
Corn Syrup	2 lb tin	Crown	.34	13%
Flour,white all purpose	5 lb bag	Kitchen Craft	.37	13%
Beef,average all cuts			.43	13½%
Bread,plain white,wrapped, slice	loaf	Polly Ann	2/25¢	13½%
Bread,plain white wrapped unsliced	loaf	Polly Ann	2/25¢	13½%

APPENDIX "C"
(cont'd)

Name of Commodity	Unit of Sale	Grade or Brand	Retail Price	Markup
Jam, straw-berry, pure	2 lb tin	Empress	.54	15%
Infant's Food, veg.	5 oz tin	Heinz	3/29¢	15½%
AVERAGE MARKUP ALL ITEMS COMBINED				16%
Bleach, liq-uid concen-trated	16 oz	Perfex	.18	16½%
Cheese, pl. processed	½ lb pkg	Velveeta	.35	16½%
Marmalade orange	2 lb jar	Empress	.35	16½%
Peaches, choice, half	15 oz tin	Halves of Gold	.18	16½%
Raisins, seed-less, Calif.	15 oz pkg	Thompson	.22	16½%
Rice, 1st gr.	16 oz pkg	Delta Long	.21	16½%
Strawberries frozen, fancy	15 oz pkg	Aylmer	.35	16½%
Apple juice, choice	20 oz tin	Sunrype	2/35¢	17%
Floor wax, paste	1 lb tin	Johnson's	.59	17%
Orange juice	20 oz tin	Full O'Gold	2/29¢	17%
Pickles, sweet mix	16 oz jar	Zest	.32	17%
Soft drinks (ex. bottle deposit)	6-10 oz	Coca-Cola	6/36¢	17%
Chicken, Grade A, milk fed	lb		.58	17%
Green Peas, frozen	12 oz pkg	Aylmer	.19	17½%
Macaroni, dry	16 oz pkg	Catelli	2/35¢	17½%
Bananas, yellow	lb		2/39¢	17½%

Name of Commodity	Unit of Sale	Grade or Brand	Retail Price	Markup
Beans, baked with pork	15 oz tin	Taste Tells	2/23¢	18%
Cookies, vanilla flavor. no filling or icing	8 oz pkg	Christies	.22	18%
Lamb, average all cuts				18%
Salmon, canned fancy pink	½ lb tin	Prince Leo	.21	18%
Pure pork sausage	lb		.49	18%
Prunes, med.	16 oz pkg	40/50's	.30	18½%
Grapefruit juice, fancy	20 oz tin	Town House	2/23¢	19%
Tomatoes, choice 2½'s	28 oz tin	Vanity Fair	.21	19%
Cod fillet, fresh	lb		.35	19½%
Broom, med. quality 20-24 lb doz.5 string	each	Lion	1.45	21%
No.1 Tomatoes	14 oz ctn	Imported	.25	21½%
Waxed Paper 100 ft. box		Hand-E-Wrap	.31	22%
Pork Loin Chops, centre	lb		.79	22½%
Bologna	lb		.35	23%
Choc.Bars, pl.	bar	Cadbury	4/19¢	24%
Cheese, Canad. med. bulk	lb	Berkshire	.55	24%
Grapefruit, 96's size 80's	lb	Florida	2/21¢	24½%
Carrots, tops off, bulk	lb	Imported	2/23¢	25%
Halibut steak fresh	lb	.31	25½%	

APPENDIX "C"
(cont'd)

Name of Commodity	Unit of Sale	Grade or Brand	Retail Price	Markup
Cabbage	lb	Imported	2/13¢	26%
Tomatoes, fresh field	lb	Imported	.23	26%
Celery stal-ks, green	lb	Imported	2/23¢	27½%
Pork Hock-less, shouldr	lb		.59	27%
Oranges, Cal. 344 or 288	lb		.12	27½%
Lemonx, Cal. 300 or 360	lb		.16	28½%
Turnips, Cal.	lb		.09	28½%
Onions, No.1 cooking	lb	Imported	2/13¢	29%
Light Bulbs, frosted	each	60 watt	.20	41%
Lettuce head, fresh	lb	Local	.14	29½%
Apples, eat'g	lb	Variety Winesap	.15	30%

Then, Appendix D is a note about computation of store markups, as follows:

Note About Computation of Store Markups

Throughout this brief, store markups on a percentage basis have been computed in the following manner:

1. From the retail selling price of an individual item the landed store cost to Safeway of that item has been deducted.
2. This difference between the selling price and the landed store cost has been divided by the retail selling price, thus giving the percentage markup.

THE CHAIRMAN: Mr. MacAulay, there is a distinction drawn sometimes between "markup" which is generally regarded as being related to cost, and the margin which is related to selling price. You are apparently using the term "markup" in the sense of the margin of percentage of selling cost, selling price; is that right?

MR. MacAULAY: Yes.

THE CHAIRMAN: When you speak of a mark-up you are speaking of a percentage of selling cost, rather than a markup on the cost price?

MR. MacAULAY: Yes.

THE CHAIRMAN: Because in some briefs we have had the two terms have been used as meaning something different; and the percentages, of course, vary.

MR. MacAULAY: Yes, of course. Then, to continue with the reading of Appendix D:

> It should be emphasized that Safeway's low retailing prices are not due to any losses taken at either the retailing or wholesale stages inasmuch as there are no such losses at either stage.
>
> It might be further added that this integration of warehousing and retailing operations is the source of many great economies from which Safeway customers benefit. These same economies, it can be further pointed out, are available to any other retailers, chain or individual, who choose to operate in the same manner.

Now, if there are any questions that the Commission or counsel wish to ask, I have Mr. Kraft here and Mr. Crawford, and I might choose to answer some of the questions myself. I presume that so long as you get the answers you are not interested in who answers them.

THE CHAIRMAN: So long as we get the right answers -- and by that I mean the answers which really mean what Safeway intends to say.

MR. MacAULAY: Yes, I understand.

THE CHAIRMAN: I think it might be wise

if we were to adjourn for lunch at this time. It is after 12.30, and if we resumt at 2.30 we would have plenty of time for discussion this afternoon, without having to stay too late.

--- Luncheon adjournment.

---Upon resuming at 2.30 p.m., Tuesday, July 6, 1954.

THE CHAIRMAN: I gather, Mr. MacAulay, that you do not wish to add anything further at this stage?

MR. MACAULAY: No, I think not.

THE CHAIRMAN: Questions will now be in order, then.

MR. MACAULAY: Yes. And I think perhaps most of the questions will be directed to operations. I think Mr. Kraft will answer them or, if he thinks it is something the general manager might answer better, someone else will answer.

THE CHAIRMAN: We will leave it that when a question is asked, whichever of you has the information will give the answer to it.

MR. MACAULAY: That is satisfactory, yes.

MR. GERIN-LAJOIE: Mr. MacAulay, you have made quite clear what you consider a loss leader to be. There is only one clarification I should like to have, if possible. I have in mind what you say particularly at the top of page 6 in your brief, where you say:

> It should be pointed out that in any honest definition loss must be involved before there is a true loss leader.

I wonder if you have in mind a loss with respect to your cost price or with respect to any other figure--with a small markup to cover some overhead expenses, or not at all.

MR. MACAULAY: I think perhaps that is in our

definition--"A loss leader is a sale made at a price below the lower of invoice or replacement cost, with the intent or purpose of injuring or destroying competition by misleading customers". So I think our meaning of "loss" can perhaps be derived from the definition--"Loss leader is a sale made at a price below the lower of invoice or replacement cost."

MR. GERIN-LAJOIE: Now refer to page 4 of your brief, where it says:

> A written company policy further specifies that prices shall not be reduced below . . . (b) six per cent above current replacement costs.

Have you any special reason why this figure of six per cent was determined, why it should not be five per cent or seven per cent or eight per cent?

MR. MACAULAY: Well, that six per cent was written into the booklet by head office and, so far as I am concerned, I have no reason. So far as Mr. Kraft is concerned, I do not think he has any reason, either.

MR. KRAFT: I would have no answer to that, no.

MR. MACAULAY: We just do what we are told.

THE CHAIRMAN: You mean that the Canadian company does what they are told?

MR. MACAULAY: No, the president of the company tells us what to do.

MR. WHITELEY: Is it possible it has any

relationship to percentages set in any minimum loss acts in the United States?

MR. MACAULAY: No, I doubt that very much. because those percentages vary, I think, in the acts in the United States.

MR. WHITELEY: I seem to recall that some of them have six per cent.

MR. MACAULAY: Yes; I know it was in there before we had a five per cent minimum markup law here. That six per cent figure has been in there for a long time.

THE CHAIRMAN: Before any of the provinces here passed any legislation?

MR. MACAULAY: Yes, before any of the provinces here passed legislation.

MR. GERIN-LAJOIE: Would your answer be the same, or your absence of an answer be the same regarding this 15 per cent figure?

MR. MACAULAY: That is right. Experience indicates pretty much that you have to have 15 per cent on produce, on account of the depreciation features or the deterioriation feature. And that is why that percentage is higher than it is in the ordinary case.

MR. GERIN-LAJOIE: I had a tendency to attach relative importance to this six per cent figure, because some of the groups who have appeared before the Commission have complained about the great variety of markups. And you have justified that variety in your brief.

MR. MACAULAY: Yes.

MR. GERIN-LAJOIE: I was wondering if there was any specific reason for fixing the lowest margin at six per cent. But you say you do not have any specific reason.

MR. MACAULAY: No, I do not think so. I notice that in our brief we say we hope to get down to six per cent to eight per cent. We hope our markup ultimately can be between six and eight per cent.

MR. GERIN-LAJOIE: Now, at page 16 of your brief there is something which relates also to that percentage. I am referring to the paragraph which deals with competition, and which states:

> As previously explained the company must protect its competitive position by meeting the prices of its competitors in the trading area.

I wonder if that might lead you to fixing a markup under six per cent, in the circumstances explained or envisaged in this paragraph.

MR. MACAULAY: We would not fix a markup below six per cent, but we could conceivably go below six per cent in order to meet competition.

MR. GERIN-LAJOIE: That is what I mean.

MR. MACAULAY: Yes; otherwise, it would not mean anything, unless we did. That is, if our competitors knew that we would never go below six per cent above cost, we would never have any

competitive position.

MR. GERIN-LAJOIE: Does that mean also that you would go under your cost price, if necessary, under such conditions?

MR. MACAULAY: I think that could be said, yes.

MR. KRAFT: Yes.

MR. GERIN-LAJOIE: Is it the policy of your company to meet all competitors' prices, whether advertised or not, or whenever you know there is a lower price?

MR. KRAFT: It is, to the best of our ability. We have full-time checkers, who check every newspaper ad that comes out. And we do our best to see that we are not undersold. Our price checkers also visit competitors' stores and observe firsthand what they are offering, to see if any of their prices are lower than ours.

Our price checkers, of course, are thoroughly familiar with our own prices. This is the case, except in isolated rare instances where, perhaps in a small neighbourhood, once in a while a small merchant may drastically cut a price and we may tend to close our eyes to that condition for a short time, if it is just an isolated case. However, if it is a serious cut in that area, we would meet the price in the store or stores nearest that competitor. But we do our best to be competitive.

MR. GERIN-LAJOIE: Now, I should like

to be more precise about this. I have personal knowledge, although it is not in the record before the Commission, that in Montreal, for instance, where we have a few chains, some goods are cheaper in one store, possibly to the extent of one cent, and some others are cheaper in another store. I wonder if that would not happen here; do I understand that as far as you know where any competitor has a lower price than you have, you manage to have the same or a lower one?

MR. KRAFT: To the best of our ability we will meet a competitor's condition.

MR. GERIN-LAJOIE: When you say "to the best of our ability", what do you mean?

MR. KRAFT: We do everything we can possibly do to be aware of what the competitor is doing.

MR. GERIN-LAJOIE: Yes.

MR. KRAFT: We listen to all their radio announcements, to the extent that it is possible, and we check every ad that comes out, as quickly as we can get our hands on the newspapers when they come out in the afternoon. We check the papers and, if there are any prices advertised in the papers lower than ours, then that night a price change bulletin goes out to our stores, so that next morning they are selling that merchandise at the competitor's prices.

To the best of our ability we meet conditions. I would not say that it does not

happen once in a while that a competitor somewhere may undersell us for a short time; but we do the very best we can to be aware of what is happening.

MR. GERIN-LAJOIE: What I had in mind was those cases where you know that a competitor has a lower price. Of course, I have not in mind cases where you would not be aware of the situation.

MR. KRAFT: Where we know that a competitor has a lower price, we meet that price.

MR. FAVREAU: If I may interject, does this system of checking apply only to the case of advertised prices of other retailers, or only to the actual prices as they are in effect on the premises?

MR. KRAFT: It applies to both. We check every day, and our price checkers visit the stores of competitors, and check all their regular prices, their shelf prices; and we make adjustments as necessary, so that we will meet both their shelf prices and their advertised prices.

THE CHAIRMAN: When you say you meet those prices, do you mean that you strike a price that is the same, or do you go below them?

MR. KRAFT: We do not go below.

MR. GERIN-LAJOIE: My next question deals with traditional markups, or the factor of condition in determining your markups. I am referring particularly to page 15 of your brief. I should like to have a bit more information on this factor, and the policy of your company regarding it. Do you stick by any traditional markup or would you have a

tendency to change it progressively whenever you think it is not commercially sound?

MR. KRAFT: We would have a tendency to change it, if competitive conditions permit. That is, if historically an item has been sold at an unreasonably low markup, then, if we can raise the price and be competitive, thereby making the price more reasonable, we will do so. And on occasions we do lead upward. We reluctantly do that, and that does not often happen. But it has happened. And we do, on occasions, lead upward where the price is so low that it does not show in our opinion a reasonable markup.

MR. GERIN-LAJOIE: Does that mean, however, that you never lead at a higher price than any of your competitors, so far as you know?

MR. KRAFT: That we never lead upward?

MR. GERIN-LAJOIE: At a higher level than your competitors do?

MR. KRAFT: We do, once in a while. But we do not often lead upward. We do not often set a price higher than a competitor. But, on a few occasions, we have done so. I recall that in Edmonton perhaps two years ago bread was being sold at a price so low that it did not show the manufacturer a profit, and also show the retailer a reasonable margin.

We were the first to increase the bread price. We left the price up a few days, and competitors did not--our main competitor did not

similarly increase his price. So we dropped down again. We left it down for a matter of a month or six weeks, perhaps, and we tried the same thing again. This time the competitor also increased his price. Thereby the price of bread was restored to a more reasonable markup./ As I say, we reluctantly do that kind of thing. We do not often do it. We do not like doing it. But we do it on occasions.

MR. GERIN-LAJOIE: I am looking at page 10 of your brief. Is this, Mr. MacAulay, the complete list, or do we find a complete list in the appendix?

MR. MACAULAY: This is complete. However, there is more detail in the appendix.

MR. KRAFT: This is double spaced, and in the appendix it is single spaced.

MR. GERIN-LAJOIE: It would not be a complete list of your items.

MR. MACAULAY: No--of the 85 items.

MR. GERIN-LAJOIE: I have in mind goods you sell at a markup of six, seven or perhaps eight per cent. Is it your opinion that those markups are commercially sound, taking into account all factors mentioned in your brief, apart from the traditional factors?

MR. KRAFT: It depends on the item and the turnover--the bulk of the item, and the weight of the item, and the amount of space taken up. Seven per cent or even less than that may show a good profit, depending on the item. On another item the percentage markup of possibly 12 per cent, or

more, would not necessarily show a profit.

MR. GERIN-LAJOIE: I quite understand that. But, having regard to those factors, is it your opinion that all low markups are fully justified, quite apart from the factor of tradition which has made a certain price prevail?

MR. KRAFT: No, I would not say all. I would think that markups on some items might justifiably be a little higher than they are.

MR. WHITELEY: To what extent can you actually assess the profitability of individual items?

MR. KRAFT: The profitability of individual items?

MR. WHITELEY: Yes.

MR. KRAFT: I do not believe I can answer that one; and I do not know, with due respect to everyone here, or elsewhere, if anyone else could answer it. I do not know if any grocery store, where 2,900 items are handled--if in that store it is actually known how much it costs exactly to handle each specific item.

MR.WHITELEY: I think that is really involved in counsel's question. Because, while you might have a general opinion that selling one particular item at eight per cent is not too profitable, if you cannot actually measure you are really relying on your judgment rather than upon any actual accounting appraisal of the expenses, and so on, involved in connection with the disposal of that item.

MR. KRAFT: If it were possible to make an accurate accounting appraisal it would be a very interesting figure to see. I question if that is possible. But in our opinion merchandise, high in value and small in bulk, and turning over fast can be sold for a much lower markup than a bulky, heavy item taking up much more space, and where turnover is low.

Cigarettes, for instance, is an item that has been referred to a number of times. In my experience as a retail operator I believe, considering the selling price of a carton of cigarettes at $2.95, that if I had a store and sold only cigarettes at that kind of price, and sold cigarettes in big volume, that they could be sold at probably five per cent gross margin and still show a very good profit.

On cigarettes I think the percentage figure is rather misleading. It does not cost the retailer, in my opinion, any more to handle and sell a carton of cigarettes than it does to sell a similar sized package of breakfast cereal. Cigarettes may show a markup of only seven per cent, and the markup on breakfast cereals might be 14 or 20 per cent, but if the item takes up the same bulk, and the price of a carton of cigarettes is $2.95 and that of the breakfast cereal is, let us say, 20 cents, then the 20 per cent on 20 cents would show about four cents profit, I believe, on the selling price. With 15 cents on a carton of

cigarettes costing $2.80, and selling at $2.95--and they cost less than that--but if they did cost $2.80, the retailer would be making 15 cents on the carton of cigarettes. I, therefore, say that cigarettes are very much more profitable than breakfast cereals, on that basis.

MR. WHITELEY: But there are other factors entering. Let us say that cigarettes and breakfast foods turned over at the same rate of rapidity.

MR. KRAFT: Even if they turned over at the same speed---

MR. WHITELEY: And a certain amount of capital employed in selling breakfast foods, and a larger amount of capital employed in selling cigarettes.

MR. KRAFT: As I see it, that would be the only reason why a larger margin would be justified for the cigarettes. But if you have a big turnover, the amount of capital invested becomes a very small item.

THE CHAIRMAN: If you sell the same number of cartons, then the only thing that would justify any need for higher profit on cigarettes would be the larger amount of capital that was invested in the stock.

MR. KRAFT: That is right.

THE CHAIRMAN: Selling a carton of one as rapidly as you sold the other, all other factors would be about the same--the size involved being the same, and the amount of work involved, and so on.

MR. MACAULAY: We take off a statement every four weeks, and if our judgment is wrong in the markup on too many items it shows up in the profit and loss statement.

THE CHAIRMAN: It might be wrong on one of them.

MR. MACAULAY: Yes, but on balance our judgment is all right. Otherwise we would be operating in the red rather than in the black.

THE CHAIRMAN: There is one thing about this rapidity of turnover which has not yet been mentioned. Rapidity of turnover depends upon the volume of stock which you carry, to quite an extent. If you carry 50 cartons of cigarettes and you sell 50 cartons a week, then you can say that you turned over once a week. If you carry 500 and sell only 50, then it takes ten times as long, and therefore your margin of profit is not the same, and it has to be adjusted.

MR. KRAFT: That is right. And a good merchant would not carry cigarettes more than two weeks. He wants to keep them fresh.

THE CHAIRMAN: He would try not to.

MR. MACAULAY: That is a matter of judgment, too, as to how much stock of each item you carry. You learn that from experience.

THE CHAIRMAN: There would be no hard and fast rule on that.

MR. GERIN-LAJOIE: While we are on the subject of cigarettes, Mr. Kraft, may I ask if it

is your opinion that there is possibly too large a number of cigarette outlets, tobacconists in the main cities of Canada--let us say more particularly in Vancouver--and that that would be an explanation by you of the complaint the Commission has heard from the tobacco dealers or the tobacco retailers?

MR. KRAFT: Well, I do not think I can agree to that, exactly. But I do feel that the tobacco jobbers have had an umbrella over their heads for many years, and that they have been protected with certain markups which it was thought were necessary. I say that that markup has been more than adequate for the efficient tobacco jobber with a heavy volume. It may not have been adequate for the very small jobber with a low volume, who gave services which we consider are unnecessary, such as salesmen, delivery, and credit. Those things all cost money.

MR. GERIN-LAJOIE: You are now considering the jobber, not the retailer.

MR. KRAFT: I am talking about the jobber.

MR. GERIN-LAJOIE: And what about the retailer; if he is not getting enough turnover, is there any other explanation in your view for this surplus number of retailers?

MR. KRAFT: Well, I do not know if there are too many retailers, but I think this, that the retailer who gave what we consider unnecessary service--that is, service in so far as the masses are concerned--if he gave a lot of services, those

services cost money.

If he solicits, if he takes firm orders, if he accepts C.O.D. orders, if he gives delivery and credit--all those things cost money. And his operating expense would therefore be higher than the merchants who do not give those services. And there is no reason why he should not ask for those services a higher price for his cigarettes, if he needs a higher price than the strictly cash-and-carry chain stores, or other businesses. He does not meet chain store prices on hundreds of other items which he and the chain stores, the cash-and-carry store--such as ours--have. He does not meet our prices, Safeway prices, on many other items. Why, then, should he expect to be able to meet them on cigarettes?

MR. GERIN-LAJOIE: Name a few of those commodities, a few goods of that kind, which they sell as well as you do.

MR. KRAFT: I would say that the average retailer probably handles maybe 1,000 to 1,500 of the 2,900 items we handle here. And I would say that he would probably meet some of the staple prices of the cash-and-carry stores, but the majority of his prices would be higher.

MR. GERIN-LAJOIE: Can you give examples of articles he carries and you carry?

MR. KRAFT: Oh, well, he would handle all kinds of food items.

MR. WHITELEY: You are referring to an

independent retail grocer?

MR. KRAFT: Yes.

MR. WHITELEY: Counsel may have in mind the sort of neighbourhood corner convenience store.

MR. KRAFT: Well, I am referring particularly to the grocery and, to some extent, the so-called confectionery store, which is a glorified confectionery store, and which for the biggest part of the time also handles many grocery items, including butter, eggs, milk, cheese, bread, and so on.

MR. GERIN-LAJOIE: That is not what I had in mind.

MR. KRAFT: As well as canned fruit, canned vegetables, frozen foods, smoked and cured meats. I am sorry if I did not catch your point.

MR. GERIN-LAJOIE: I had in mind what we could call more generally the tobacconist who sells tobacco products, magazines and candy.

MR. KRAFT: Oh, yes.

MR. GERIN-LAJOIE: I wonder if in your view--and, I may say that those people have complained before the Commission that the selling of cigarettes in chain stores has harmed their trade. I wonder if your explanation of their complaint or their situation is that they do not have a large enough turnover.

MR. KRAFT: I would say that, yes.

MR. GERIN-LAJOIE: And is the explanation for that the too-low turnover or the too-great number of such outlets. Or have you some other reason?

MR. KRAFT: That might seem reasonable; I think that seems reasonable.

MR. GERIN-LAJOIE: You do not see any other reason at the present time in your personal view--and I am asking that question just because you happened to deal with that subject.

MR. KRAFT: No, I do not know that I would.

MR. GERIN-LAJOIE: I wonder if you could clarify another subject at page 12 of your brief where, in the third paragraph, you say:

> For Safeway Stores in Vancouver, for instance, the average markup is now approximately 16-1/6 per cent.

I believe Mr. MacAulay mentioned, as an explanation, that that was not realized.

MR. KRAFT: That is not the realized gross.

MR. GERIN-LAJOIE: Because you had a loss on perishables.

MR. KRAFT: Yes, that is right. There would be some mark-downs to be taken against that figure, particularly in respect of perishables. If every package of merchandise, including perishables--fruit and vegetables and meats--were sold on the basis of the prices projected, then the markup might total 16-1/6 per cent. But, considering the fact that some mark-downs are necessary, or perhaps the full price is not realized for all merchandise--there is a shrinkage in merchandise, perhaps through carelessness or shoplifting or for some other reason--the realized gross would be something less

than this figure. It would probably be nearer 14 per cent--that is, the realized gross.

The matter of competitive conditions also comes in. It would be necessary to adjust prices downward. It is sometimes necessary to adjust them downward to meet competitive conditions. And that would tend to tear that figure down.

MR. GERIN-LAJOIE: So, could we make a corresponding change at page 28 of your brief, have it in mind anyway, without changing the figures, possibly? When you mention 16.4 in 1954---

MR. KRAFT: Well, now, that 16.4, I believe, was for the first 20 weeks of this year. It was not for the full year in any case. And that 16.4 was the realized gross, including the cost of warehousing and delivery, including the warehousing function. And that makes a difference of approximately two per cent.

MR. MACAULAY: There is another matter I might explain to you. At page 17 of the brief we say:

> For Canada as a whole, Safeway's gross profit per dollar of sales in 1953 came to 14.7 cents.

So the other division is included in that figure. When we take profit figures, we take the all-Canadian figures. Here we are just talking about the Vancouver division. When we talk about 14.7 cents gross we are talking about Canada as a whole,--"Safeway's gross profit per dollar of sales in 1953 came to 14.7 cents."

MR. GERIN-LAJOIE: That was the gross, taking into account the reduction?

MR. KRAFT: Yes.

MR. GERIN-LAJOIE: After operations.

THE CHAIRMAN: That is the gross realized.

MR. MACAULAY: Yes, across Canada--not in the Vancouver division.

THE CHAIRMAN: Allowing for any actual loss through depreciation, and so on.

MR. KRAFT: That is right.

MR. GERIN-LAJOIE: If we consider at page 28 the figure of 15.7 for Vancouver only, in 1953, should that not be comparable with the 16-1/6 per cent at page 12? They are both for Vancouver, are they not?

MR. KRAFT: No, the figure on page 12 is for Canada.

MR. CRAWFORD: Retail.

MR. KRAFT: That is the markup, and the 15.7 is the realized gross. It includes the cost of warehousing. This 15.7 includes the cost of warehousing and delivery, whereas the 16 per cent figure at page 12 refers only to the gross at retail level. To make a comparison as between those figures I believe roughly two per cent should be added to the 16 per cent figure on page 12 to cover warehousing and delivery functions. I think that is right, is it not?

THE CHAIRMAN: Perhaps we should look again at page 17, just to be quite clear, where we have a reference to the gross profit per dollar of sales for Canada in 1953 as 14.7. Does

that include warehousing charges?

MR. KRAFT: No.

THE CHAIRMAN: That is just the retailing operation?

MR. KRAFT: Yes.

MR. GERIN-LAJOIE: Now, I do not know if Mr. MacAulay would wish to answer, or Mr. Kraft, but Mr. MacAulay explained this morning, if I am correct, that efficient operators do not have to fear chain stores. I wonder if your company does not obtain merchandise at a lower cost than the independent retailers can get it. Would there not be a difference, at any rate?

MR. FAVREAU: That was also included in your question on cigarettes, I think.

MR. GERIN-LAJOIE: I am coming back to it.

MR. MACAULAY: We do not know that. We do not know what they obtain their goods for. I am not talking about cigarettes now.

THE CHAIRMAN: But you do know what you get them for.

MR. MACAULAY: We know what we get them for, yes. But, you see, there are voluntary chains all across the country. Fellows band together for the purpose of purchasing, and I think perhaps those voluntary chains perhaps get the same prices as we do. What the other fellow gets, we do not know--the price he pays. But, let us take Red and White--that is a voluntary chain. Then, I think there is another one on the prairies.

MR. KRAFT: Purity and United.

MR. MACAULAY: Yes, United and Purity. And I think that a lot of these chains, some chains on the prairies, buy their goods in bulk from other wholesalers, such as Western Grocers, and so on and so on. That is something we would not know about. That is something we do not tell the other fellow, and something he does not tell us.

MR. GERIN-LAJOIE: All you know is that it is conceivable that you get it at a lower price.

MR. MACAULAY: It is conceivable that he can get it at the same price, if he is smart.

THE CHAIRMAN: You would not carry that so far as to say that a single independent operator running a small store could do so?

MR. MACAULAY: If he is dealing all by himself, I would think not, yes.

MR. KRAFT: I would qualify that by suggesting that if he is a real big independent retailer, he could buy as well as a Safeway store or a chain store.

THE CHAIRMAN: Well, he would have to be a pretty big one to buy from the manufacturer that way.

MR. KRAFT: He would not necessarily need to, and I would not be surprised if some independent retailers do. I hesitate to mention names, but I think perhaps I could mention one.

THE CHAIRMAN: That is, you have a crude suspicion about some of these things that Mr. MacAulay says you would not know.

MR. KRAFT: That is right.

MR. GERIN-LAJOIE: Coming back to this question of cigarettes, I suppose you know that you get cigarettes at a cheaper price than the independent tobacconist or retailer can get them.

MR. KRAFT: No, I do not know that.

MR. GERIN-LAJOIE: And I would like to know what you think about this, which was told to the Commission by independent retailers of cigarettes, particularly the strict tobacconist type. They say, "If cigarettes are being sold in chain stores, for instance, at a lower price than we can sell them, they will get the business on cigarettes, most of it. We will have to go out of business. Who will sell the other tobacco products in those circumstances?" What would be your answer to that situation? Or would you have an answer to it--cigars, tobacco and all the small articles which are used by smokers or are carried by tobacconists?

MR. KRAFT: Well, I cannot conceive of all tobacconists going out of business, just because stores such as ours handle and sell cigarettes. I think there is enough tobacco business on other lines to make it possible and practical and profitable for a number of tobacconists' stores to stay in business.

MR. GERIN-LAJOIE: There is something else which has been told the Commission, that unless you give the independent retailer a sufficient margin of profit, according to his view of what is a sufficient

margin of profit, he will go out of business--that quite a number of them will--and that this would favour the development of monopolies, in a broad sense. First of all, would you be in a position to tell the Commission what percentage of the retail food business you may have in a city or region we will call region "X".

MR. KRAFT: Well, that varies considerably according to the town or city. And we do not know exactly what the answer would be. We have some ideas as to the total food consumption in various areas. It appears to be difficult to get from the Dominion Bureau of Statistics, or from any other source, completely accurate information. The percentage figure, according to our estimation, would vary considerably in the different towns. It would depend upon how much competition there is in an area, and how well we have the area covered, or not covered, with stores, so the people can shop conveniently. In our organization as a whole, when we consider also the American company--that is, Safeway Stores Inc.--it would range from a low of less than three per cent to a high of, I believe, a little over 25 per cent.

MR. GERIN-LAJOIE: Do you mean that in no city or particular region you would have more than 20 or 25 per cent of the retail trade, roughly speaking I mean?

MR. KRAFT: It could be; but we have no accurate knowledge of that.

MR. GERIN-LAJOIE: But your own view is that it would be about the maximum?

MR. KRAFT: Yes, I would say so. I would say that that would probably be the maximum. I do not know of any city in Western Canada, frankly, where we have a percentage figure as high as that.

MR. FAVREAU: Of all the cities in which you have stores, what is the one that is the smallest, and the one that is the biggest, in population?

MR. KRAFT: Well, the population of the city, do you mean?

MR. FAVREAU: Of all the cities in which you have stores, which one has the lowest and which one has the largest?

MR. KRAFT: Vancouver would have the greatest population.

MR. MACAULAY: And Carman, Manitoba, with 2,000 population, would probably be smallest.

MR. KRAFT: Melfort, Saskatchewan--or Courtenay--which would be even smaller than Carman. But you have to consider the population in the surrounding area, also, the trading population. And what is the radius of the trading population?--Well, that is not clearly defined. It would depend on the geographical conditions.

THE CHAIRMAN: And the condition of the roads, very often, too.

MR. KRAFT: Yes.

MR. GERIN-LAJOIE: At page 37 of the brief, the two last sentences, you say:

> Moreover, his customers tend to make their purchases in the store of the competitor who buys back the particular commodity which the offending retailer has been loss leadering.

Should we understand from this that it is quite a generalized practice for the store to buy the goods which have been loss leadered in another store?

MR. KRAFT: I would not say it is a generalized practice, but I have knowledge that it has happened in some parts of the United States. I have no knowledge that it is actually happening or has actually happened in Western Canada.

THE CHAIRMAN: You mean this actual procedure is taken from some experience in the United States?

MR. KRAFT: This particular procedure is, yes. But it could well happen here. If prices were drastically reduced to less than the invoice or the replacement cost, and if a competitor could buy from another store at a price lower than he could buy wholesale, well he could then buy from that other store. That kind of thing has happened in the United States. I have no first-hand knowledge that it has happened in Western Canada, because there is not to my knowledge any very severe price-cutting in Western Canada.

THE CHAIRMAN: That is, if a sale by the one retailer was, according to your definition, a genuine loss leader, then the other people could buy from him more cheaply than they could buy from jobbers

or manufacturers, as the case may be?

MR. KRAFT: That is right.

THE CHAIRMAN: They would tend to do it?

MR. KRAFT: Yes, and it has happened.

MR. MACAULAY: I mentioned this morning that a competitor put ads in the paper--"We will pay you so much for all these goods which are advertised"--which would be something in excess of the amount at which they were advertised. What we mean by that is that they go to the other store and buy those goods, and take them over to the competitor's store and sell them, and then buy the rest of their groceries while they are in that store.

That is what we mean by that last paragraph. That happens every day in California, and it is something that happens very frequently--perhaps not every day, but it does happen very frequently in many parts of the United States. That is the way they kill loss leadering down there.

THE CHAIRMAN: I would think they would kill it very effectively.

MR. MACAULAY: They do.

THE CHAIRMAN: That is, that kind of loss leadering anyway, on that scale.

MR. GERIN-LAJOIE: This leads us to consider the proposal which was put forward by the Saskatchewan Retail Merchants Association. I suppose, Mr. MacAulay, that you and your colleague have seen this brief of the Saskatchewan Retail Merchants Association?

MR. MACAULAY: Mr. McGavin has seen it, and he told me about it. I have not read it from beginning to end. I know what the proposal was, however, because I heard some references to it yesterday.

MR. GERIN-LAJOIE: I wonder if one of you would say what you think of such a proposal.

MR. MACAULAY: Perhaps Mr. Kraft would do that, first, and then I will make any comments I wish to make afterwards.

MR. KRAFT: Well, I have not read the brief. I have heard some references made to the proposal. It does not seem to me to be a practical suggestion. If I understand correctly, it was suggested that if and where a retailer reduces a price below cost, then he should be prepared and willing and would be obligated to sell to a competitor $300 worth of that merchandise at the price, less "X" figure to cover his cost of handling and doing business.

Well, it does not look sensible or practical to me, as a retail operator. And even if such a regulation were introduced, would that be made to apply to a retailer who sells a quarter of a million dollars worth of business a week, and also to a retailer whose sales total only $500 a week? Would the $300 figure apply to both of them?

It would seem to me to be a very impractical suggestion, one which would be almost impossible--if not impossible--to administer.

MR. GERIN-LAJOIE: Just to have your full opinion on the subject, I would like to reply to you in this way, that so far as I know the $300 figure would apply to anyone. And the answer to the problem you raise might be this, that if a retailer sells at a proper price, with the proper markup, and following the general prevailing business practice, the small retailer as well as the large retailer would be able to get another supply of his goods, as much as he wanted to get. And he would be able to supply up to that amount without any difficulty. And if he was really loss leadering--well, that would be a penalty, of course.

MR. KRAFT: And what is your question, again?

MR. GERIN-LAJOIE: What is your opinion, generally, on that? If you say it is impractical, how and why is it impractical?

MR. KRAFT: I do not think it is practical, and I do not think it is enforceable. I do not know how it could be administered in fairness to all. At what point would the item be considered a loss leader--if that is what we are thinking of?

MR. GERIN-LAJOIE: Of course there would be no point to be considered. The advantage of the formula, as explained and put forward by the Saskatchewan Retail Merchants Association, was that a retailer would have to supply any goods or any article asked for by his competitor, because he is able to get it anyway, if he sells it at the proper

price, with a proper profit, according to his way of doing business. So there would be no penalty for that retailer, if he was already selling it at a proper price, with a proper profit, a reasonable profit, in his way of doing business.

MR. KRAFT: Well, there might be a penalty. The retailer, I think, would like to serve his own regular customers. I know that is our desire and our preference. For instance, we do not like to have restaurants come into our stores and buy meats and pick out the most desirable cuts, perhaps. And that has sometimes happened.

We try to discourage that practice as much as possible, if and when it happens, because we prefer to sell those meats to our regular customers. We prefer to spread those more desirable cuts around to many customers, rather than have one account--an institutional account or a restaurant--come in and buy perhaps all of it, or almost all of that particular cut. And then it would run us short for our regular customers.

MR. GERIN-LAJOIE: Would that apply only to, let us say, meats, where you have only a certain quantity of one cut, as compared with other commodities, or would it apply also to canned goods, of which you have an unlimited amount.

MR. KRAFT: We would not have on hand an unlimited amount. It would apply more particularly, perhaps, to meats and, possibly, to fruits and vegetables--because those items are delivered to our

stores more often, and usually on a daily basis. The more hardy items, such as canned goods--it would not be quite as difficult there. But if a competitor came in and brought $300 worth of any one kind of canned goods, then perhaps we would not have enough of that particular item on hand to service our regular customers. And we would not want to subscribe to that kind of plan at all.

THE CHAIRMAN: Just to have that point clear, I think the proposal did not necessarily involve a procedure exactly along that line. I think what was proposed was that a retailer who was required by another retailer to deliver up to $300 worth of any one commodity, or $300 worth of each of a number of commodities, would not be required to denude his own stock, but he could merely give the merchant requiring him to supply it an order on his wholesaler. And that is all he would have to do. And in that way the other man would get the goods at the price required by the proposed law. And if the man who had been required to sell the goods to the retailer, or to obtain them for him, had in fact been selling at less than five per cent or ten per cent above his cost, he would suffer a penalty by every order that he got in that fashion. If on the other hand he was selling at more than five per cent or ten per cent above cost, he would make a little profit on any of those deals, because he would have nothing to do but pass the order on to the wholesaler or to

the manufacturer. That is the way it was proposed to us. And that leads, of course, to some other kind of administrative difficulties.

MR. KRAFT: May I ask, where did the $300 figure come from? Why should it not be $3,000 or $300,000, or even $1?

THE CHAIRMAN: I think, so far as the explanation went, as I recall it, it was that there had to be some reasonable limit. You could not leave the door wide open, or people might require so much that the goods could hardly be obtained at all, and it might lead to bankruptcy. On the other hand, it had to be sufficient to be of some importance. And I think our $300 is a somewhat arbitrary figure arrived at. Is that not as you recall it, Mr. Gerin-Lajoie?

MR. GERIN-LAJOIE: Yes.

MR. KRAFT: Well, with all due respect to the proposers of the suggestion, I cannot see that it is practical, and I think the $300 figure might be unreasonably large for very small merchants and would be much too small for the very large merchants.

THE CHAIRMAN: You think that if it were made to operate it might impose far too severe a penalty on the small dealer and not be a very serious handicap to the really big operator?

MR. KRAFT: That is right.

THE CHAIRMAN: Unless all the independent merchants in the area ganged up on the big fellow.

MR. KRAFT: Yes.

MR. GERIN-LAJOIE: That would be only in the case of loss leadering, of course. Because if there is no loss incurred by the so-called loss leadering retailer he would still make a profit, and he would be obliged to supply goods until he is able to get it. The order may be given direct to the wholesaler, or to the retailer, it does not matter. There is a clause regarding short supply items; and in any case the retailer would have time to get the full $300 order, to supply it to the competitor. So, from that point of view, do you still see any objection?

MR. KRAFT: I have no further opinion in the matter. I still feel strongly that it is impractical and unworkable.

MR. GERIN-LAJOIE: Well, I would not like to go further. It is not quite fair to you when you have not had a chance to look into it in detail. I just wanted to have your first impression.

THE CHAIRMAN: If you do examine it in detail, we would be glad to have your views on some of the administrative difficulties which you have referred to.

MR. MACAULAY: Would you like us to include that in our supplementary documents?

THE CHAIRMAN: We think there would be some administrative difficulties. But experienced and practical men in the actual field might be able to describe those difficulties and tell us how it would work out, much better than we can tell.

MR. MACAULAY: It says:

> Any retail unit upon request shall sell to any retail unit in the food field any item commonly sold in food stores at the lowest net price such retail unit had it available to the consuming public on the immediately preceding business day--.

And then there is a reference to the discount, and so on. And then it says:

> --Except as otherwise provided the maximum quantity that the selling retail unit shall be obliged to sell to any one purchasing retail unit shall be to the value of $300.

THE CHAIRMAN: On any one item.

MR. MACAULAY: Yes, on any one item. Now, if he is doing serious loss leadering, so that it makes it attractive to the other merchants, and 17 competitors descend upon this independent grocer at one time--there is $5,100 worth of stuff he has to deliver. The likelihood is that he has no arrangement with his manufacturer to get more goods. He may get just so much.

MR. FAVREAU: It would apply not only in the case of loss leadering; it applies in any case whatsoever.

THE CHAIRMAN: It would be only in the case where the price was sufficiently low to be attractive to the other dealer.

MR. MACAULAY: Yes, sufficiently attractive. I do not know what the inventory of a store like that would be, of a comparatively small store.

THE CHAIRMAN: The proposal really involves giving him time to get it from a supply dealer, and he only has to do it when the requiring dealer pays him cash on the nail with the order; so that there is no question of credit involved.

MR. MACAULAY: All right. I think there are many difficulties, but we will certainly deal with it in our supplementary submission.

MR. FAVREAU: It might be of interest to look into the application of the formula to meat bought in carcasses, for instance.

THE CHAIRMAN: That was one place where we saw some difficulty--applying the five per cent or ten per cent markup on meats bought by the carcass, when some of it is retailed at a lower price than the per-pound cost of the carcass.

MR. MACAULAY: Who will sell the cheap cuts?

MR. GERIN-LAJOIE: I have a question to ask about your private brands and nationally known brands. I am looking at page 41 of your brief. It mentions there that in a typical Safeway grocery store 50 to 65 per cent of all items sold are branded. Do you mean brands apart from your private brands?

MR. KRAFT: That is all brands--both what we call outside brands and our sponsored brands, combined.

MR. GERIN-LAJOIE: Could you give us some information, a rough idea, of the percentage of your outside brands, as you call them, in your store?

MR. KRAFT: As compared with what?

MR. GERIN-LAJOIE: As compared with your complete stock, unbranded as well as your own branded articles?

MR. KRAFT: Well, it would just be a guess at this stage. I do not believe we have ever taken off that figure. But I do not think our sponsored brands would total more than 10 per cent of all the items we handle. Does that answer your question?

MR. GERIN-LAJOIE: Would that mean that from 40 to 55 per cent of all items sold would be outside brands?

MR. KRAFT: I would say at least that, yes, on all the branded lines, plus many items that are not branded.

MR. GERIN-LAJOIE: Now, could you tell us if before the present legislation, that is, before December, 1951--there was resale price maintenance regarding quite a number of outside brands or branded articles?

MR. KRAFT: No; I would say not, in so far as food items are concerned. There was considerable control over non-food items.

MR. GERIN-LAJOIE: Which you carry?

MR. KRAFT: We carried them to some extent. We carry them in a limited number. We term them bathroom supplies and, principally, that is what they are.

MR. GERIN-LAJOIE: Soaps?

MR. KRAFT: Toothpaste and soaps and so on; we have always handled soaps. It would also include some patent medicines--Listerine, and a few things

like that. The total number of those items handled in our stores is not very large. I believe most of those items were formerly price controlled. There were not many food items that were price controlled.

THE CHAIRMAN: Do you say that soaps were price controlled?

MR. KRAFT: Not soaps, no--but bath-room supply items other than soaps.

THE CHAIRMAN: Other than soaps?

MR. KRAFT: Yes--patent medicines, such as Listerine, toothpaste, vaseline, deodorants, floor wax, hand lotions, and so on.

MR. GERIN-LAJOIE: So may I take from what you say that resale price maintenance, if it were to come back, would not be expected to interfere with free competition in the food business, absolutely free competition as we understand it now, without resale price maintenance?

MR. KRAFT: It would interfere, we think--but, to what extent is anybody's guess. I do not believe I can answer that.

MR. GERIN-LAJOIE: And as regards the past, your opinion is that it did not interfere in the food articles?

MR. KRAFT: It did, in a limited way, but not very extensively.

MR. GERIN-LAJOIE: You mean on a limited number of articles?

MR. KRAFT: Yes, on food items.

THE CHAIRMAN: Some of these were nationally

branded articles?

MR. KRAFT: Yes, some of them were.

THE CHAIRMAN: Some of them were price controlled?

MR. KRAFT: Yes, but not to a very great extent. For instance, I believe canned soup was an item--at least, if it was not rigidly controlled we were given to understand--that is Campbell's canned soup--we were given a suggested selling price. Perhaps Mr. Crawford could confirm that, or our price maker. Either one of those gentlemen might answer it more intelligently than I can. There was a very limited amount of control over food items.

THE CHAIRMAN: What we are trying to do, what we are trying to get at is to what extent there was any actual control by your suppliers of the prices of food products. The mere suggestion in itself does not mean that there is any great degree of control. But was there any indication to you in these cases that there might be some consequence of not following the suggestion?

MR. KRAFT: On food items, strictly speaking, I do not know of any, offhand.

MR. CRAWFORD: May I suggest a couple?

MR. KRAFT: Yes.

MR. CRAWFORD: We were told on two frozen food lines--Minute Maid and Bird's Eye--that they wanted the price maintained, and that we would have to maintain it. That is going back before price maintenance.

THE CHAIRMAN: That is not since?

MR. CRAWFORD: No, that is before.

MR. WHITELEY: And baby foods?

MR. CRAWFORD: No, we did not pay any attention to a maintained price on baby foods.

MR. WHITELEY: Previously?

MR. CRAWFORD: No.

MR. KRAFT: They may have given a suggested price, but they did not control it. They did not indicate that if we did not maintain the price they would refuse to supply us.

THE CHAIRMAN: It was mostly a hope on their part.

MR. KRAFT: Yes.

MR. GERIN-LAJOIE: I wonder, if we were to have resale prices---

MR. KRAFT: Oh, I beg your pardon, I now do think of one item that might be considered a food item. It was chewing gum. Maybe it would be an amusement item, rather than a food item.

THE CHAIRMAN: Some people have a different term for it.

MR. KRAFT: It was price controlled to such an extent that on one occasion the manufacturer requested that we hold a minimum price that we considered has an excessive margin, more than we required, and the result was that we discontinued handling chewing gum.

THE CHAIRMAN: A lot of people must have suffered.

MR. CRAWFORD: Another one that occurs to me was Cream of Wheat. For many years that has had a controlled price.

MR. KRAFT: Yes. We were threatened that the supply would be cut off if we did not hold the price on Cream of Wheat. But there were very few items that were rigidly controlled, food items.

MR. GERIN-LAJOIE: I would like to know if you believe that resale price maintenance would give you an advantage over the independent retailer in view of the fact that you might put forward your own branded articles while the independent retailer would have to rely upon national brands.

MR. KRAFT: I do not think so.

MR. GERIN-LAJOIE: Let us consider bread, for instance--having your own branded bread. You could sell it possibly at a price you wanted to sell it at, and the independent retailer would have to rely on bread supplied by the commercial bakeries, the large bakeries, which might impose their resale price.

MR. KRAFT: Oh, it is conceivable--it is conceivable. But I do not know that that would be the case--and I do not think so.

MR. MACAULAY: We indicate in here our attitude toward resale price maintenance, and we would naturally have in mind our own brands when we were indicating that attitude. So we would think that--well, we do not go for resale price maintenance, as you might have gathered, even though, as you suggest,

there might be advantages to us on our own sponsored brands.

MR. GERIN-LAJOIE: I am wondering if you feel that there might be some advantages to you, or not.

MR. KRAFT: I would say no.

THE CHAIRMAN: The question seems to involve whether, if nationally advertised brands or products similar to those which are sponsored by you have a maintained price which is somewhat higher than you would be willing to sell at--whether that would tend to increase the sale of your sponsored brands.

MR. KRAFT: It possibly would, yes. I would think it possibly would. If a consumer can buy "B" brand which is of equal quality to "A" brand at a lower price, then it is reasonable that some--perhaps many customers will gradually buy the "B" brand, as they become aware of its quality. If they can save money, they will do so--the majority of them.

THE CHAIRMAN: Would you say that the attitude of your company is that you do not care whether you sell other people's brands or your own, so long as they can be sold profitably as merchandise?

MR. KRAFT: I would hardly go that far. We would prefer to sell our own sponsored brands. We feel that they are real consumer value at the prices at which we sell them; and usually our sponsored brands are sold at prices slightly lower than competitive national brands. And the principal reason for that is that we have complete control of those items, in our

subsidiary companies--in packing those items. We try to be efficient. Our supplier companies, our subsidiaries, do not have the same amount of expense, selling expense and other advertising expense, as some of the national firms have, that have salesmen out and that do a lot of heavy advertising on a national basis. So we believe we can sell sponsored brands, and we prefer to sell sponsored brands, because they offer real consumer value at prices which usually are a little lower.

THE CHAIRMAN: And returning to you as good a profit as the others?

MR. KRAFT: And returning to us a profit at least equal, usually, to the outside brands so-called.

MR. MACAULAY: After weighing all the possible advantages, we still are against resale price maintenance.

THE CHAIRMAN: I think you have said that pretty definitely.

MR. GERIN-LAJOIE: That is all I have to ask now, Mr. Chairman.

MR. WHITELEY: Has Safeway any defined policy with respect to the use of so-called premiums?

MR. KRAFT: We oppose, in principle--we are opposed to premiums, and coupons, of all kinds.

MR. WHITELEY: That is, offers initiated by someone outside Safeway?

MR. KRAFT: Yes. And within the company we do not have many premium deals or offers. We

dislike them. They disrupt business. They take extra time, and they are hard to handle. They are costly, and in the end they do not result in the consumer saving anything, for the biggest part.

MR. WHITELEY: Do you engage in any policies of attempting to give special inducements to bring traffic into your stores on the slack days?

MR. KRAFT: Do you mean by way of premiums and coupons?

MR. WHITELEY: Yes.

MR. KRAFT: We rarely do. On occasions we may have a coupon good for 10 or 15 or 25 cents, for example, against the purchase price of a tin of coffee or a bag of flour. But that is the exception, not the rule. Usually we feature only price ads.

MR. WHITELEY: What about the other type, where they encourage large orders; do you have any of that?

MR. KRAFT: No. Our prices are the same to the large and the small buyer. The margin is so thin that we could not cut it further and give the larger purchasers a further reduced price. The small purchaser and the big purchaser all get the same price. Sometimes the would-be large purchaser would expect perhaps some added service, and we do not subscribe to that. Customers mailing in C.O.D. orders with money enclosed are not accepted. The orders are not accepted. We return the orders with the money orders, and express our regrets. Because, to handle that kind of business takes

extra labour. We just do not have the time in our type of business to accept those orders--to select the merchandise, to pack it in cases, to bind it and to express or ship it out. If we were to subscribe to that kind of service it would result in increased operating costs, and either lower the margins or mean higher prices to the consumer. So we do not accept C.O.D. orders at all.

MR. WHITELEY: I was thinking more of the type in which an offer is made whereby if your order is given on Monday, Tuesday or Wednesday, a certain inducement is offered.

MR. KRAFT: No, we have never subscribed to that.

THE CHAIRMAN: You did at one time have a delivery service, did you not, if purchases were over a certain amount? Did not that obtain in some localities?

MR. KRAFT: We did, years ago--at least 15 years ago--when we subscribed to a delivery service, of a kind. Customers were then able to pay 10 cents and have their orders delivered. But we found that procedure very disrupting and very costly. Delivery service itself costs more than 10 cents.

THE CHAIRMAN: Because I seem to recall at one time that for an order of $3 it was free delivery.

MR. KRAFT: It may have been, in some areas. I do not think it was, uniformly--that it was the same throughout Western Canada. But I believe I was then in Southern Alberta and we at that time charged

10 cents to have delivery made.

THE CHAIRMAN: You have no delivery service at all now?

MR. KRAFT: No.

MR. MACAULAY: And we have not had, for years.

MR. KRAFT: No; we have no credit, and no delivery service, and we accept no C.O.D. orders. People are required to come in and to make their own selections and to pay cash, and to take the merchandise away with them.

MR. FAVREAU: On page 43 of the brief there is an attempt at forecasting what would happen if there was a return to resale price maintenance in the food business. Could you tell us whether this is what you believe will happen, or if it is based on some experience incurred during the time when resale price maintenance was not banned? I am not saying that the forecast is not proper or appropriate, or that it is not logical. I am just asking if you were referring to some past experience.

MR. MACAULAY: Not personal experience here; we were just forecasting on the basis of experience elsewhere.

THE CHAIRMAN: That is, you thought what happened elsewhere could happen here?

MR. MACAULAY: Yes, it could happen here.

THE CHAIRMAN: It might happen here, although it did not happen before the abolition of resale price maintenance.

MR. MACAULAY: That is right.

THE CHAIRMAN: And it might indicate that perhaps you fear that resale price maintenance would lead to stricter application of price maintenance than you had formerly?

MR. MACAULAY: That is right.

THE CHAIRMAN: Is that your belief?

MR. MACAULAY: It might be worse the second time than it was the first time.

MR. KRAFT: It could happen that if price maintenance were carried far enough, there would not be a place in the retail food business for us.

THE CHAIRMAN: Oh, well, now---

MR. KRAFT: If it were made to apply to hundreds of items and affected most of the items that we sell. We do know that in the limited way where there was price fixing before, it resulted in lower sales of some items in our stores than we realize, when we are able to reflect advantages to consumers, made possible by our plan of doing business in the form of lower prices.

THE CHAIRMAN: I was going to say that the theory you advance as to what might happen would seem to depend upon some fear on your part that resale price maintenance, if restored, would be applied much more rigidly than it was formerly; because, if it was not, it would not have these effects.

MR. MACAULAY: Here is the situation, as

I see it: You had an experience with making resale price maintenance illegal. And then, after having that legislation in effect for a period, that is abandoned and that legislation is repealed. And the people who favoured resale price maintenance would be strengthened in their view that it was here to stay. And we would be resale price maintenanced every time we turned around. It would be worse, going back, than it would have been if it had remained when it was here in the first instance.

THE CHAIRMAN: That is what we wanted to get at.

MR. MACAULEY: That is the way we feel about it.

MR. FAVREAU: At page 36 there is reference to the fact that only 29 alleged resale items were referred to in the sum total of 10,000 or more separate grocery items on the Canadian market, with the consequent view that this would apparently be of so little importance as to make loss leadering no great danger to the Canadian economy. My view would be--and I just wish to have your reaction to this--that the relation of the number of articles loss leadered to the over-all number of articles in the trade, if you wish to put it that way, would not be a final or very decisive test. Would it not rather be--would not the test be the number of articles dealt in by the particular retailer who used one loss leader? And, if I may give an example, you told us quite definitely that your company is not loss leadering.

So let us just use a theoretical example with your own company.

In your units, where you deal with 2,800 separate items, for instance, my idea would be that if in these units you used only two loss leaders to draw people to your stores, you would hurt the trade much more than would the smaller operator dealing in a lesser number of units and using a greater number of loss leaders. So that what is important is the number of articles dealt in by a particular retailer using a loss leader. With some people in a store where you deal generally with a great number of lines, I suppose you will draw people to buy more articles and you will hurt trade more than another retailer drawing people to his own store where he deals in a smaller number of items.

MR. KRAFT: I think that would follow, if we employed the use of loss leaders.

MR. FAVREAU: I am not saying that you are doing it; I am speaking theoretically.

MR. KRAFT: We do not have loss leaders.

THE CHAIRMAN: The more effective a loss leader is in leading people to and buying other things, the more damage it does to other traders, I suppose?

MR. MACAULAY: But you say if we used two commodities permanently as loss leaders--but that is not really what they do with loss leaders.

MR. FAVREAU: They try switching from one to the other.

MR. MACAULAY: Yes, to fool the people.

And if they have them sticking out like a sore thumb all the time, just two of them, they would go after them under these minimum markup laws.

MR. FAVREAU: And, because the switch is necessary to be efficient, in your view the small number of 29 loss leaders is absolutely unimportant?

MR. MACAULAY: Yes, that is what we think.

THE CHAIRMAN: I have one or two questions--and they are not very serious ones because the questions which have been asked up to now have pretty well cleared up matters that were in my mind. Mr. MacAulay and Mr. Kraft have said that they do not frequently lead to higher prices, but that on occasions they have done so. I would judge that the basis upon which Safeway was organized was that they could lead downwards frequently. I was looking at page 16 of the brief, about which we had some comment earlier, and noticing the two traditionally large markup items for which no one of the reasons for large markups given previously seems to give any explanation. On the basis of the reasons for the large or small markups which you have given previously, I would have thought that on a thing like toothpaste, which has perhaps about the same bulk as a package of cigarettes, or perhaps a little more, and which is easily handled, and for which there is a pretty steady demand--perhaps not as rapid or as frequent as for cigarettes, but still fairly steady--you might get along with something less than 35 per cent markup. Is the explanation of that large markup merely that

you have not looked at it intensively yet, and that possibly if you did you might change your markup?

MR. KRAFT: I would say yes. I do not believe that we would require a markup as large as 35 per cent on toothpaste. We probably will reduce that. But toothpaste does not sell in the volume that cigarettes sell in, of course.

THE CHAIRMAN: Oh, I understand that. But still there is a lot of difference between seven per cent and 35 per cent.

MR. KRAFT: Yes. I think in answer to your question that the price might be adjusted downward, and perhaps will be.

THE CHAIRMAN: That is the explanation of it in your mind, that it has not perhaps been examined with care, with a view to seeing whether it is a higher markup than you need, and that you simply have followed the traditional markup to the present time? Because the other reasons you have given for high markups do not apply with regard to this item-- at least, I would judge that from your brief.

MR. KRAFT: That is right. I think that the margin there might be reduced. I think it is an item which should be studied and reviewed, and we should consider reducing the margin there.

MR. WHITELEY: Is the volume of that type of merchandise increasing, both in the turnover of the ones you previously handled and in the addition of somewhat similar lines?

MR. KRAFT: I would say the volume of tooth-paste in food stores is increasing, yes, in our type

of food store.

MR. WHITELEY: What about the addition of related lines? Is that going up?

MR. KRAFT: Yes, I would say that there is some gradual increase in related items. But sales, on the whole, of what we term bathroom supply items are not large.

THE CHAIRMAN: With regard to cigarettes, there is just one little point, and I think the answer is pretty clear. I think you gave us your purchase price, at some point in the hearing.

MR. KRAFT: $2.69 a carton.

THE CHAIRMAN: $2.69 a carton. From the information which we have that indicates that you are on the jobbers' list.

MR. KRAFT: Yes.

THE CHAIRMAN: You get jobbers' prices?

MR. KRAFT: Yes.

THE CHAIRMAN: Mr. MacAulay has suggested that independents who could be as efficient would be able to compete. Now, if the independent is unable to get a jobbers' price, his efficiency would have to be pretty sharply increased in order to compete with you on cigarettes, is that not so? It would take a remarkable increase in the efficiency of an independent to enable that independent, who pays $2.91 for a carton, for which you pay $2.69, to compete with you in the sale of cigarettes?

MR. KRAFT: Yes, I would say that on $2.91--if that is what the independent is paying.

THE CHAIRMAN: That is what they tell us.

MR. KRAFT: I would think that he would have to be pretty efficient. I do not know what the independent pays here, but in Victoria--this brief is filed in Vancouver, and refers particularly to the situation in Vancouver--but in Victoria, where we operate a wholesale warehouse, and where we sell to independent retailers, as well as supplying our own stores, the independent retailer there pays $2.80 for cigarettes--a carton of cigarettes.

THE CHAIRMAN: All of them?

MR. KRAFT: On the "B" list--that is, the larger accounts, the larger purchasers.

THE CHAIRMAN: Are those ones who are on the direct purchasing list?

MR. MACAULAY: No, they buy from MacDonald's Consolidated.

MR. KRAFT: From MacDonald's Consolidated Limited.

THE CHAIRMAN: There are apparently two or three kinds of lists.

MR. KRAFT: We have two in Victoria.

THE CHAIRMAN: There is the jobbers' list and the direct list, and even some independent retailers are on the direct list. And there is the price which the retailer has to pay, who buys in the ordinary way through a jobber. Some get a direct price list which is somewhat between the jobbers' list and the retail purchase. But, according to the information which the Director obtained last year, and

that we have obtained since, the independent retailer purchasing through a jobber pays $2.91.

MR. KRAFT: Well, I do not think that is a fixed price. It may be different in different areas. I know that the independent retailer who buys from MacDonald's Consolidated in Victoria, and who buys on MacDonald's Consolidated Limited "B" list, buys cigarettes for $2.80 a carton.

MR. WHITELEY: Why is it called a "B" list?

MR. KRAFT: The "B" list applies to the larger accounts. Then, there is the "A" list. I am not sure offhand what the price of cigarettes is on the "A" list. It may also be $2.80, but I know it is $2.80 on the "B" list.

THE CHAIRMAN: MacDonald's Consolidated does that?

MR. KRAFT: That is not the tobacco jobbers; that is MacDonald's Consolidated "B" list. It is to the independent retailers.

MR. WHITELEY: Are they higher prices to smaller buyers?

MR. KRAFT: The "A" list is a higher price to the smaller buyers, covering some items, but not necessarily so on cigarettes. I can get that information for you. But offhand I do not know if the "A" and "B" lists for cigarettes are the same in Victoria or not. I know the "B" list is $2.80, and many independent retailers there do buy cigarettes from MacDonald's Consolidated at $2.80 a carton.

THE CHAIRMAN: Does that mean that MacDonald's

Consolidated are a jobber from the manufacturer and that they fix their own "B" list?

MR. KRAFT: Yes.

THE CHAIRMAN: The price is determined by the jobber in that case?

MR. KRAFT: Yes.

THE CHAIRMAN: And he makes the distinction between one class of buyer and another?

MR. KRAFT: Yes, that is right.

MR. WHITELEY: Do MacDonald's Consolidated operations in Victoria come under your supervision?

MR. KRAFT: Yes.

MR. WHITELEY: Have you any information as to what the possibility would be of a cash-and-carry sale of cigarettes by the wholesaler?

MR. KRAFT: Well, I would think that the wholesaler could operate on a lower margin if he had a cash-and-carry business, as many of the larger retailers have. But perhaps they could sell cigarettes for $2.75 or something less than $2.80, if the retailers came and got them at his dock.

MR. WHITELEY: I was wondering whether you thought it would be at all feasible, having in mind the number of lines of cigarettes?

MR. KRAFT: I believe it is the practice in some United States points for a wholesale grocery store to operate on that basis, that is on a cash-and-carry come-and-get-it plan.

MR. WHITELEY: I have heard of that in the ordinary general line of groceries.

MR. KRAFT: Yes, and it would include cigarettes, because wholesale grocers generally, and perhaps without exception, handle all cigarettes.

THE CHAIRMAN: You do not know whether other jobbers in Victoria--jobbers other than MacDonald's Consolidated, operate in the same way?

MR. KRAFT: No.

THE CHAIRMAN: You know about MacDonald's Consolidated?

MR. KRAFT: Yes.

THE CHAIRMAN: Because of your connection with them?

MR. KRAFT: Yes.

MR. MACAULAY: The MacDonald name has been confusing, because of the MacDonald Tobacco Company.

THE CHAIRMAN: I thought you were referring to the MacDonald Tobacco Company?

MR. KRAFT: No.

MR. MACAULAY: It is only from the Victoria warehouse that we do business with the independents; and in Alberta and Saskatchewan; but not in Vancouver.

THE CHAIRMAN: The information we had in some other places was that the manufacturers thought it was inadvisable to increase the number of jobbers, and that groups of retailers who formed organizations for the purpose of trying to buy at the wholesale level were unable to be put upon the jobbers' list. And that is one reason they felt they were seriously handicapped with regard to competition in cigarettes.

Efficiency would hardly overcome that.

MR. MACAULAY: If some of the wholesalers in the east--and you say the independents pay $2.91?

THE CHAIRMAN: That is our information.

MR. MACAULAY: Well, if some of the wholesalers in the east who get this $2.69 price were prepared to do business at four per cent with the independents, it would give them a price on their cigarettes of $2.80, the same as the independents get in dealing with the Victoria warehouse.

THE CHAIRMAN: I am not suggesting what might be done. I am merely suggesting that, so far as the independent retailer is concerned, he has not been able to get a better price, and he has not been able to organize so that he could be put on the jobbers' list.

Then, there is one other question. I should like to have completely clear your views with regard to the establishment of minimum markups. We know that Mr. MacAulay's argument had to do, in the first instance, with the average markup, the required average markup, and then you criticized also the minimum markup.

I was wondering if the minimum markup was made sufficiently low, let us say five per cent, which is below anything that your company normally contemplates as being proper, would your objections be as strong as they were when they were addressed to the question in a general way? If the minimum markup is below the markup which you think is proper on any of

the articles which you sell, would that overcome your objection, or would your objection still remain?

MR. KRAFT: We do not like minimum markups at all. We think it would be just as well or perhaps better if there were no minimum markup.

THE CHAIRMAN: And your objections are strong, or are they of the same nature, if the minimum markup is a markup that is lower than you consider fair or reasonable for any article?

MR. MACAULAY: We still do not like it, because we think that the legislation would be used to harass Safeway and other large chain stores, and would not be used against our competitors at all. That is the feeling we have. And, while we do not intend to sell at less than five per cent above cost of replacement, we think that any legislation of that type--well, that is the effect of it. It is enforced against some and possibly not enforced against others.

THE CHAIRMAN: You have been complying with the law in the provinces which have this five per cent provision?

MR. MACAULAY: Yes.

THE CHAIRMAN: Have you been harassed by that?

MR. MACAULAY: No; but you pointed out that it had not any teeth in it.

MR. FAVREAU: Perhaps there should be a proviso saying that such legislation is not to be used unduly to harass Safeway.

MR. MACAULAY: Perhaps so; that would be a good proviso. And we say also in our brief, that we are trying to get operating costs down, and our markups down to six to eight per cent. And so we think that any minimum, no matter what it is, is a retrograde step.

THE CHAIRMAN: If a five per cent minimum were set, you would not get below that within two or three years?

MR. MACAULAY: That is right.

THE CHAIRMAN: And subsequently changes might be made to lower the level, if the normal costs of operation got down to the point where that seemed to be too high a minimum. However, your objection, I take it, is to the principle of the thing, and having in mind your company, and the possible effects upon it.

MR. MACAULAY: I will give you an example from another field. We try to stay open one night a week, for the convenience of the public. In some jurisdictions they try to close us up on the one night a week. Competition will petition to close us and, if they succeed, they know that they can stay open, because they are scattered all around the place; whereas we are in a prominent location, and when we are open everybody knows it. And so all those types of restrictions work to our disadvantage. Because it is enforced against the larger operator, and there is a tendency not to enforce it against the smaller operator.

THE CHAIRMAN: Those are all the questions I have.

MR. MACAULAY: And, once you get it, it is hard to change.

THE CHAIRMAN: I think that completes the questioning we have, gentlemen. If any of you wishes to add anything further, of course, you are now free to do so. This would be the proper time to speak.

MR. MACAULAY: I have nothing to add at this time. I think my friend may wish to ask me to obtain some information for him. Any information he wishes me to obtain I will be only too happy to obtain it. We intend to continue to follow the hearings; depending upon these developments, we may wish to make some supplementary submissions before the hearings close in Ottawa. We will be very glad to supply any supplementary information the Commission may wish to have at that time. We will be prepared to answer any questions my learned friend wishes to ask, and to obtain any information he may wish us to obtain.

THE CHAIRMAN: It will be open to you, as it is to all those who appear before us, to file supplementary briefs, or to make supplementary representations when we resume in Ottawa.

I would like to say that we appreciate very much the very thorough brief which you have presented today. We have been greatly interested in hearing the very clear exposition you have given

of some of the methods of doing business in the retail grocery field, particularly the breakdown of the methods of markup, and the way in which meat is handled, as well as the explanation you have given as to the very wide variation in retail prices, particularly those of meat. I am sure that this material will be of benefit and use to the Commission in arriving at as complete an understanding as it is capable of doing with respect to the problems involved in the retail field, and in particular in connection with the use or abuse of loss leaders.

That will complete the hearing, gentlemen, for today, and perhaps we will hear from you again in Ottawa, if you so desire.

The hearing will resume tomorrow morning for further representations and other briefs.

---Whereupon the hearing was adjourned on Tuesday, July 6, to be resumed Wednesday, July 7, at 10.00 a.m.

Canada
RESTRICTIVE TRADE PRACTICES COMMISSION

LOSS-LEADER SELLING

TRANSCRIPT OF EVIDENCE

Vol. 17

VANCOUVER

JUL 7 1954

C/O-N-T-E-N-T-S

VANCOUVER SITTING

(Third Day)

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RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

An Inquiry

Regarding Loss Leader Selling

--o--

Hearing held (in public) in room 414, The Court House, Vancouver, British Columbia, July 7, 1954

--o--

PRESENT:

C. Rhodes Smith, Q.C.,M.A.,LL.B.,B.C.L., Chairman

Guy Favreau, Q.C.,B.A.,LL.B., Member

A. S. Whiteley, B.A., M.A., Member.

--o--

APPEARANCES:

Mr. Paul Gerin-Lajoie, Counsel for the Commission

Mr. R. M. Davidson, Secretary to the Commission

--o--

REPRESENTATIONS:

The British Columbia Retail Hardware Association:

Mr. John W. Stephens,

Mr. J. A. Smith.

--o--

THE CHAIRMAN: I understand we are to have a brief presented by the British Columbia Retail Hardware Association. If they are ready, would they please come forward and use these chairs at the front. We had better begin by getting the names of those who are presenting the brief.

MR. STEPHENS: I am John W. Stephens, chairman of the committee.

THE CHAIRMAN: It is a committee, not an association?

MR. STEPHENS: Well, I am chairman of the committee of the association.

THE CHAIRMAN: And the name of the committee is what?

MR. SMITH: The unfair trade practices committee.

MR. STEPHENS: This is Mr. J. A. Smith, manager-secretary of the association.

THE CHAIRMAN: In case neither of you has been present at previous proceedings, we have usually adopted the procedure of having whoever is in charge of the brief to read it, and make any comments he likes either during or after the reading; and then if any other member of the delegation wishes to add anything, that is done; and then the questions follow. Is that satisfactory to you?

MR. STEPHENS: Yes, quite satisfactory. Mr. Chairman and gentlemen, this brief I am about to read has been prepared through our association from information gathered from the various hardware

merchants in the province of British Columbia. We have had no legal advice with respect to the brief. It has just been presented as the hardware merchants of British Columbia see it. I shall proceed to read the brief, which was prepared as a result of several meetings of the whole association, followed by consideration by the directors of the association, and finally by a committee which was set up. The brief is as follows:

The British Columbia Retail Hardware Association representing 187 Associated Hardware Merchants in all sections of the Province of British Columbia respectfully submits the following for your attention in regard to loss leader selling, a practice which in our opinion is not only detrimental to the consumer, but also to the retail hardware trade.

1 The local hardware and appliance store renders many services to the community that cannot be furnished by larger stores in more congested city areas. Free advice in doing repair jobs; advice on decorating; how to clean out a plugged sink; how can I do so and so. These are a few of the services expected of the local hardware merchant. He is expected to support all the local community charities and other activities. He is required to keep a good reputation. He must present his goods as they are with no substitutes or inferior quality.

2 As a result of price cutting or the use of loss leaders, many of these local merchants have discontinued carrying major and traffic appliances and many other staple lines, as they cannot afford to sell at a loss, or in some cases now carry an inferior product in order to meet the competition. As a result, the public are placed in a position, whereby, they receive an inferior product or are put to the inconvenience of going out of the neighborhood to obtain their requirements.

3 The loss leader practice is causing financial difficulties with the neighborhood hardware merchant and will, if allowed to continue, put many of them out of business. Should enough of these merchants be placed in this position, it will do away with much competition. The firms now practising the loss leader way of doing business could find themselves in a position whereby they would have complete control of the retail price structure and raise prices to an extent whereby the public would lose far more than they gain through a period of price cutting.

4 In order for the retailer to obtain goods at a price enabling him to continue the loss leader practice, much pressure is placed on the manufacturer and jobber

for goods on price rather than on quality. This must in time have an effect on the quality of the goods and wages paid, thus having an effect on the country's economy.

5 Each additional local hardware put out of business, will be one less outlet for the sale of goods, thereby giving the jobber less chance to sell his goods, causing further unemployment.

6 While it is appreciated that special prices should be allowed and given to the public on periodic sales, the continuing use of staple items advertised at far below their market value cannot be good business, and the public must be paying for this practice either in inferior goods or through lack of service.

7 For many years, there has been an agreed mark up on retail selling which has been considered fair and reasonable and the merchant using this mark up has not become wealthy, in fact, there have been many failures. It, therefore, must be assumed that to sell for less than the recognized mark up the difference between profit and loss must come from another source other than the loss leader. Could it be that through high pressure salesmen the public are being sold other merchandise on time, at high interest rates

which make up this difference?

8 There is no doubt, that if only a few outlets use the loss leader to obtain business, they will take from all merchants a percentage of the trade. However, there is only a certain amount of business to be had, and if all use the loss leader method of merchandising - all will suffer financially in the long run.

9 Unable to compete with quality merchandise at loss leader prices, the local merchant is turning to imported goods from countries with lower standards of living; this is particularly true in British Columbia, where ocean freight rates from overseas points are in many cases less than rail rates from Eastern Canada. There is no need to elaborate further as to how this can effect the average Canadian.

10 In summary, this Association is of the opinion that a great deal of the loss leader practice now apparent results from recent legislation passed which prohibits the manufacturer from naming a retail price for his goods, particularly so when these goods are nationally advertised and enjoy a reputation of being quality goods as advertised over a period of years.

Then, further to this brief, the time was short when we knew we were going to put in a brief, and we did not have time to contact all outside points. As you know, they are quite remote, in British Columbia. So, prior to preparing this brief I sent out 187 questionnaires to those outside points. I have here a copy of the questionnaire, which is as follows:

"Due to LOSS LEADERS - in the PAST YEAR

Have you lost business in Traffic Appliances?....Yes or No.

What percentage or dollar volume?........Approximately.

Have you lost business in Major Appliances?......Yes or No.

What percentage or dollar volume?........Approximately.

Do you still stock Major Appliances...Traffic Appliances....

Have you reduced your stock in Major Appliances........

Have you reduced your stock in Traffic Appliances .....

Has loss leadering forced you to discontinue Standard Brands and to substitute inferior products in order to meet this competition?.......Yes or No."

As a result of this questionnaire a total of 62 replies were received, and if it is permissible, I would like to quote some of these replies.

THE CHAIRMAN: Would you care to file some of that material?

MR. STEPHENS: Yes, I shall do that.

THE CHAIRMAN: You may read the replies, if you wish to do so. I was merely suggesting that after you have read them it might be of interest to us to have the actual statement.

MR. STEPHENS: We have already handed

them to the secretary of the Commission. Taking the first question: Have you lost business in Traffic Appliances? 100 per cent answered yes. To the next question: Have you lost business in Major Appliances? we found that 97 per cent answered yes. And then: What percentage or dollar volume, approximately? The answer is 97 per cent.

THE CHAIRMAN: Do you mean 97 per cent---

MR. STEPHENS: No, I am sorry, I have made a mistake there. As you were. To the question: What percentage or dollar volume?--The answer was 45 per cent. In connection with total Traffic Appliances, six companies averaged a loss of $2,080. That was the report from the six companies that replied.

THE CHAIRMAN: The average loss for the year?

MR. STEPHENS: Yes, for the year's operations.

THE CHAIRMAN: Have you any idea what the percentage of that would be?

MR. STEPHENS: Traffic Appliances, 35 companies, an average of 45 per cent.

THE CHAIRMAN: So that previous sales were somewhere in the neighbourhood of $5,000?

MR. SMITH: This is traffic appliances, small appliances.

THE CHAIRMAN: About $5,000?

MR. STEPHENS: Yes. Then: Have you lost business in major appliances? That was the next

question. 54 per cent said yes, that they had. The next question was: Do you still stock Major Appliances? 90 per cent replied that they did, that they still stock them. The next question: Have you reduced your stock of Major Appliances? 96 per cent answered yes. The next question: Have loss leaders forced you to discontinue Standard Brands and to substitute inferior products in order to meet this competition? 40 out of 62 said that they had substituted inferior products. That represents 74 per cent.

Subsequently to this questionnaire there were other remarks sent in, which I would like to quote, if I may. Because at the bottom of the questionnaire--and I have a copy here which I will give you—there was a space left for other remarks. And these are some of the remarks taken out of those replies. They are as follows:

> Now trying to pick up unknown brands as unable to sell Standard Brands on the present market. Customers are all confused and I must add to confusion to exist.
>
> Alex Gammie
> Department Store,
> Lytton, B.C.

> Inasmuch as various Governments has instituted Minimum Wage Acts to protect Workers, we strongly believe that the Manufacturers List Price was a measure of our Minimum Margin and enabled all to

compete in the selling field instead of the finance field.

Harvey's Stores Ltd.,
Vancouver, B.C.

Loss Leadering is very unfair to the small dealers in the suburbs, if the condition is allowed to continue, many small dealers like myself will be forced out of business or to a much lower standard of living.

Sealey's Hardware,
Vancouver, B.C.

Price cutting to our costs, and apparent excessive trade in allowances have created confusion and mistrust in the minds of the public. The competitive prices cannot even be close to those for instance advertised by other firms.

Clugston Hardware Ltd.,
Vancouver, B.C.

Loss Leader Sales have just about killed the sales of Electric Appliances in the small stores. Price Control is the only solution for the welfare of the small store.

Kitsilano Hardware Co. Ltd.
Vancouver, B.C.

Under present conditions it is impossible

for us to sell any appliances and are discontinuing all appliance lines.

Columbia Hardware & Building Supplies,
New Westminster, B.C.

I do not stock appliances. No use stocking them when I can't sell at a profit.

Burnaby Hardware & Electric,
Burnaby, B.C.

We have handled G.E. Irons, Toasters, Grills, etc., for thirteen years, have two pieces left which we are going to sacrifice and then leave this line of goods strictly alone. We had thought to go into Morphy-Richards line, but that too is now being slashed by other stores, so have decided to leave it to them as no doubt they will get the other lines too. This hits us hard, but many men are hit worse; there is a concern across the street, where this man was overseas through World War II, and opened up with the G.E. Agency when he came back. He was forced to sell out the line at less than cost and all he has left for a living is Power Mowers, Records and a little Repair Work; pretty tough on a man who has fought for his country, to be driven out of business by people who were building up their business while he was

overseas. I see no hope of getting appliances of any kind that will not, sooner or later, be slashed and kicked around in the same manner as G.E. and Morphy-Richards. I understand that Revere Ware and Pyrex is also getting similar treatment.

Bailey's Hardware,
Burnaby, B.C.

We stock only one of a branded traffic appliance, and sell only when we can't sell the cheaper substitute. Formerly we stocked dozens and half dozens and because we weren't being cheated, we sold with a will to sell. We are now looking for foreign imports to replace our Canadian Manufactured Products.

McPhail Hardware Ltd.,
Vancouver, B.C.

There are many more of these, but they are all pretty much the same. I shall not read any more.

THE CHAIRMAN: You have filed a copy of them with the official reporter?

MR. STEPHENS: Yes.

THE CHAIRMAN: I shall ask that the reporter place them on the record, so that we will have them before us.

MR. STEPHENS: I have in conjunction with that many advertisements here to prove that merchandise is being advertised at less than cost

price. No doubt you will wish to see it later.

THE CHAIRMAN: We would like to have copies of those filed, if we could.

MR. STEPHENS: Of the ads?

THE CHAIRMAN: We would like to know something about them, what they are.

MR. STEPHENS: I have here listed the regular retail price, and our cost, and the price they are being advertised at on each ad.

MR. FAVREAU: On each ad?

MR. STEPHENS: Yes, on each ad.

MR. FAVREAU: And what do you mean by your "cost"?

MR. STEPHENS: Our cost at wholesale.

MR. FAVREAU: Per unit?

MR. STEPHENS: What they call the regular cost or, as this advertiser says, "the regular price"--and the suggested retail price, and the price at which he is advertising.

THE CHAIRMAN: In each case is the price shown as the regular price the suggested retail price suggested by the manufacturer?

MR. STEPHENS: Yes, so far as I can ascertain.

THE CHAIRMAN: And what you show as the cost price to the dealer--is that the cost price when bought in small quantities or large quantities?

MR. STEPHENS: No, that is individual packages, as most dealers buy it.

THE CHAIRMAN: Usually your traffic

appliances are bought in fairly small quantities?

MR. STEPHENS: Yes. There is very little quantity discount on traffic appliances--unless they are brought in by the carload lot. And there are not very many stores can afford to do that.

THE CHAIRMAN: I just wanted to be sure that we know what the cost price was to the dealers who, you say, are selling at less than cost, or selling these articles as loss leaders. We will try to find out what that is. If they are buying in large quantities they may be getting some discount.

MR. STEPHENS: Undoubtedly they are. But it would be hard to find that out.

THE CHAIRMAN: Well, we might find out from their records.

MR. STEPHENS: Yes, you might; but it would be impossible for me to find out. I have nothing further.

THE CHAIRMAN: I think these might be filed. We have here seven pages containing clippings from newspapers, and these clippings consist of advertisements of electrical appliances generally described as traffic appliances.

MR. STEPHENS: That is right. There is one item there I would ask you to disregard, and that is Revere ware. That cannot be considered as a loss leader, because there is some profit being made on it. We did not realize that until this morning, when we were going over the style and the prices.

THE CHAIRMAN: I notice that these ads

do not contain any dates. Can you give us the dates, or the period within which they were obtained?

MR. STEPHENS: That is within the last two weeks.

THE CHAIRMAN: Within the last two weeks prior to July 7, 1954?

MR. STEPHENS: Yes.

THE CHAIRMAN: And are they taken from Vancouver papers?

MR. STEPHENS: Yes, most of them from the Daily Province.

MR. FAVREAU: Most of them?

THE CHAIRMAN: From the Daily Province. And do they refer to advertisements by Vancouver dealers or dealers in other places as well?

MR. STEPHENS: No, that is only Vancouver.

THE CHAIRMAN: Vancouver dealers?

MR. STEPHENS: Yes. As a matter of fact most of these are from one dealer.

THE CHAIRMAN: The one we have been hearing about pretty frequently?

MR. STEPHENS: I would not know that.

THE CHAIRMAN: Then, the pages containing these newspaper advertisements will be filed as Exhibit VAN-1.

---EXHIBIT VAN-1: Newspaper advertisements (7 pages) from the Vancouver Daily Province, appearing within the two weeks preceding July 7, 1954, and showing electrical appliances (traffic appliances).

THE CHAIRMAN: Would you continue, then.

MR. STEPHENS: I have nothing further to say, Mr. Chairman, unless you wish to question some of these remarks.

THE CHAIRMAN: I think there will be some questions. We always do have some.

MR. STEPHENS: I have nothing further to say in connection with my brief.

THE CHAIRMAN: Does Mr. Smith wish to add anything at this time?

MR. SMITH: No. I am here more in an informative capacity.

THE CHAIRMAN: There is one question I should like to ask before counsel begins to ask questions. In the brief there is really no description of what you regard as a loss leader. I recognize and we all know that a definition which meets the views of everybody is pretty hard to find. But we want to know what you mean when you talk about a loss leader.

MR. STEPHENS: I would like to suggest that a loss leader is an article sold at less money than it costs, plus the cost of operation. There is a certain percentage within two points that it costs a man to operate. And he must get a profit from his merchandise to cover up those two points. For instance, if an article is being bought for $2 and sold for $1.95, he obviously is getting no profit. So that must be called a loss leader.

THE CHAIRMAN: If you buy at $2, that is

the invoice price?

MR. STEPHENS: Yes.

THE CHAIRMAN: And you sell at $1.95, nobody would question that you are selling at a loss.

MR. STEPHENS: That is right.

THE CHAIRMAN: But if he buys at $2 and sells at $2.25, there is a question that he may or may not be selling at a loss, according to your definition.

MR. STEPHENS: Yes, well---

MR. SMITH: May I answer that? There must be a certain percentage of overhead in business. And, as you know, there are very few businesses operating on less than 20 per cent of their gross, of operating cost. Some of them run as high as 25 per cent. In fact, the Canadian average in the hardware business is 25 per cent.

THE CHAIRMAN: Then, does your association---

MR. SMITH: The $2 plus even 20 per cent would make it $2.40.

THE CHAIRMAN: Yes, I understand. According to your understanding of what is a good definition of a loss leader, it is when you sell at less than the invoice price, plus approximately 25 per cent?

MR. SMITH: When he is unable to make a profit selling that article, a legitimate profit, selling that article at his cost, plus his overhead, plus a profit.

THE CHAIRMAN: Can you pin it down more closely, or do you wish to leave it in that way?

MR. SMITH: It would be cost of article, plus operating cost--that is the net cost.

THE CHAIRMAN: You cannot pin it down in terms of percentages? You see, when you say a certain thing is a loss leader, and it is sold at something above invoice cost, it is rather difficult for us to say just where the line comes, when the only indication we have is that the operating cost should be added to the invoice.

MR. SMITH: That is why we added our paragraph about maintained prices. We feel that loss leadering is an evil, but it is very hard for the Government to set up a type of legislation which would not be obsoleted in a certain period of time by changing business conditions, and things of that sort.

THE CHAIRMAN: That is, the general cost of operation changes from year to year?

MR. SMITH: Yes.

THE CHAIRMAN: And might become greater or might become less, according to circumstances?

MR. STEPHENS: Yes, and it would be very hard to set up a rigid loss leader legislation.

THE CHAIRMAN: Would you think it would be difficult also because of the fact that, with regard to some types of articles handled in hardware stores, the percentage of markup might not need to be as high as it is with respect to others? I am thinking, for instance, of things which sell fairly frequently as compared with articles which you keep in the store

for a comparatively long period of time before they sell.

MR. SMITH: There is a variation in the markup today in hardware, or in any other business. In hardware lines the markup varies considerably on the various articles.

THE CHAIRMAN: And you are referring to the average markup, the average cost of doing business?

MR. SMITH: The average cost of doing business, yes. And the Canadian average, as put out by surveys conducted by the Canadian Hardware Association, shows approximately a 25 per cent cost of doing business.

THE CHAIRMAN: Would you go so far as to submit that any article which is sold at less than invoice price, plus 25 per cent, is being sold at a loss?

MR. SMITH: On large volume a man may be able to average at a smaller operating percentage. Let us say a million dollar volume may be able to cut his operating costs down to perhaps 20 per cent.

THE CHAIRMAN: But if you now have varying markups, which no doubt are related to the cost of doing business with respect to those articles, at least that would be one of the causes for those variations--and the average is 25 per cent, it would be difficult to say that anything sold with less than a 25 per cent markup would be sold at a loss because some of those articles are now being

sold by everybody regularly at something less than 25 per cent, if 25 per cent is the average.

MR. SMITH: That is right.

THE CHAIRMAN: So that it is difficult to pin it down to anything that is exact.

MR. SMITH: That is quite true.

THE CHAIRMAN: But you feel in all cases there should be some allowance for overhead, and that the average should work out at about 25 per cent in the hardware business?

MR. SMITH: And another complaint is a repetition of that. This electric kettle which we show you in those ads--that has been advertised for a considerable period of time in this town, at varying prices. It originally was $9.95, and due to the change in taxes it was reduced to $9.50. That has become an established price of that article in this town.

THE CHAIRMAN: And what is the list price?

MR. SMITH: The suggested list price is $14.95. You cannot even talk electric kettle to a customer today. He will quote you this price of $9.50. That is what he pays for a General Electric kettle. There is no remote possibility of getting any other price. That price is now established in this town, just the same as if you had legislation establishing it. And that ad is repeated weekly at least, and sometimes more often. That is loss leadering with one article. There is no excuse for that type of selling--no

excuse of clearing of merchandise, or of a special purchase.

I think that in checking one company's book in this town you will find that their cost price varied over that period, and the previous year. You will find that some of their invoices will be where they made a slight profit, and others will be where they showed a loss.

THE CHAIRMAN: You mean they were getting lower prices than hardware retailers?

MR. SMITH: They possibly would make a good buy somewhere, but in other cases they paid the same price as ordinary retailers.

THE CHAIRMAN: Sometimes they were able to buy at less than $9.50, is that it?

MR. SMITH: Yes, that is one of our main complaints. It is repetition of advertising. One sale using a loss leader does not hurt a suburban or a small dealer too much, because it is here today and gone tomorrow. But when you have that repetition week after week, establishing that price, the small dealer might as well forget about handling that article. So he proceeds to get something inferior as a substitute, on which he can make a small profit, and sell at the same price.

A man walks into your store and says, "I want an electric kettle." The hardware man reaches for the one on which he can make a small profit, and sells that kettle. I hold no brief for the General Electric Company, but we feel that they have suffered in the traffic appliances business

due to this loss leadering, too, in this town. Because most of our dealers keep one G.E. kettle. If you are a good customer, and you walk in and want that kettle, our dealer will sell it to you. But if you are not a regular customer, and you walk in and say, "I want an electric kettle", he will not even show you the General Electric kettle. And if you say you want a General Electric kettle and you are not a regular customer, he will say, "I do not handle them."

THE CHAIRMAN: And it is now so firmly established that the price of the G.E. kettle in the Vancouver area is $9.50 that practically no dealers try to get a higher price, is that right?

MR. SMITH: That is right; it is impossible to get a higher price.

MR. STEPHENS: As a matter of fact, in my own store the other day a lady walked in and said, "I want an electric kettle"--and she put $9.50 on the counter. That is how it is being done. She did not even ask the price, or anything else about it--she just put $9.50 on the counter.

THE CHAIRMAN: Just offering you the money.

MR. STEPHENS: She knew what the maintained price was, and that was the maintained price.

MR. FAVREAU: She thought she was accepting your own implied offer, perhaps?

THE CHAIRMAN: That is a new way of expressing it--"maintained price".

MR. STEPHENS: It is just as surely maintained

as if the Government had passed legislation covering it. Because you can go into any store that handles major appliances and buy for that money--no more, and no less.

THE CHAIRMAN: I have seen it in other places for less.

MR. SMITH: Well, there is a difference between eastern and western provinces.

THE CHAIRMAN: They have been maintained on different levels, you mean? Then, Mr. Gerin-Lajoie, do you wish to ask a question?

MR. GERIN-LAJOIE: Gentlemen, I have a few questions, as counsel for the Commission. First of all, in regard to the questionnaire you sent out to your members, may I take it from the questionnaire that I have here that you did not explain what you meant by a loss leader, and that you have not asked your people what they mean by a loss leader, in answer to the questionnaire?

MR. STEPHENS: It was not asked or explained at the time of the questionnaire going out. But there have been many bulletins going out at least once a month to our members, discussing loss leadering.

MR. SMITH: Loss leaders have been discussed at quite some length at our general meetings, directors' meetings, and in bulletins to, as I say, define something that is sold at less than cost, plus operating expenses. And practically, I would say, 90 per cent or close to 100 per cent of our

members know that definition. That is what we mean. If they misunderstood or have given it a wrong meaning, or given us wrong information, we could not vouch for it. But that is our understanding of the definition, among the members of our association, in all the discussions we have had.

MR. FAVREAU: You can fairly take it for granted in your opinion that this is the basis upon which the answers were given to the questionnaire?

MR. SMITH: Yes, that is right.

THE CHAIRMAN: And without specifying any purpose of being behind the cut in price?

MR. SMITH: That is right, yes.

MR. GERIN-LAJOIE: Would you go so far as to say that the mass of your people did not mean by a loss leader any article sold under the suggested price, or that it would mean something other than that?

MR. SMITH: Oh, yes. It would be quite a bit under the suggested price, because we have had price cutting for quite some period of time. But it is only in the last 12 months that this loss leadering has really run into terrific proportions--in fact to the point where it really bothers us. There has always been a certain amount of loose merchandising, even under resale price maintenance, in major appliances, with trade-ins--using trade-ins as a basis to evade the maintained price in the old days.

We were accustomed to that, and learned to

live with it, knowing that the small dealer who could not get terrific volume could still get his friendship business from his regular customers. But now has come this loss leadering, when people are selling below our cost; and we know that in the case of small appliances they are using them to bring in customers for major appliances.

This one firm I have mentioned--you go to that store to pick up one of those kettles, and you do not just pick up a kettle and pay your money. Oh, no; you get a long sales talk about major appliances, and your name is entered on a mailing list, or a list of customers. It is used as a leader.

MR. WHITELEY: Have you any evidence of that?

MR. SMITH: I cannot present it before this court, no. I have not got a signed statement from anybody.

MR. WHITELEY: Did you ever go in and try to buy a kettle in that way?

MR. SMITH: I have done it with another article, not a kettle, but with Revere ware, when I shopped there.

THE CHAIRMAN: And you got a sales talk?

MR. SMITH: Yes.

THE CHAIRMAN: And got literature from them since then?

MR. SMITH: Yes. I have been on their mailing list.

MR. GERIN-LAJOIE: You have received some publicity from them?

MR. SMITH: Yes. You will also notice that at the bottom of one of those ads we left a little clipping that states that they will ship anywhere in British Columbia. This is not just a local problem.

THE CHAIRMAN: Which advertisement is that?

MR. GERIN-LAJOIE: The advertisement on automatic toasters, Sunbeam. There are three advertisements together, at \$29.95; \$17.95 and \$21.95.

MR. WHITELEY: How does that tie in with your opinion that they used that to lead customers into their store?

MR. SMITH: A man writing in would be put on the mailing list, his name would be, and they would get it that way from out-of-town persons who would write in.

MR. FAVREAU: Do they send out catalogues?

MR. SMITH: No, just specials.

MR. STEPHENS: Not only that, but these ads are widely circulated through the Province and the Sun, which go all up the valley.

MR. SMITH: You see, we have only two main papers in this province, Vancouver papers, and they are sent all over the province.

MR. WHITELEY: What I was thinking was that if an out-of-town customer sees the ad and

buys a kettle, by mail, he could hardly be enticed into buying a refrigerator, could he?

MR. SMITH: But when he registers his name and address he is a potential mail-order customer.

THE CHAIRMAN: You mean they put him on the mailing list, and then they send him notices of specials in other appliances?

MR. SMITH: That is right, sir.

MR. GERIN-LAJOIE: Regarding the interpretation of the words "loss leader" by the members of your association who replied to the questionnaire, should I take it that they determine whether an article is sold as a loss leader or not by their own cost of operation, and not by the cost of operation of the store selling a so-called loss leader?

MR. SMITH: We are taking our cost of operation, alone, which is the only yardstick we can go by. We do not see his invoices.

MR. GERIN-LAJOIE: Would it not be possible in your view that a store might have a much lower cost of operation?

For instance, someone appeared before this Commission, in Montreal, and explained that he had a low-cost operation because he was doing most of the selling himself. He had large advertisements in the newspapers showing his so-called price cutting, and he had a great number of customers phoning or coming up, and he did the

selling himself. In that way he saved much of the expense of paying salesmen. Apparently, as he told the Commission, he had a much lower cost of operation that way. So in his case it is possible that that would not be a loss leader, as it might appear to you, or some other retailer.

MR. STEPHENS: But you cannot do a large operation and do all the work yourself? It would be impossible for a man to have a large turnover and do the work without paying help.

MR. GERIN-LAJOIE: I said "mostly". He had some help, but apparently he had less than what you might call an ordinary retailer. But what I have in mind is this, that you have no way of ascertaining that what you regard as a loss leader is really a sale under the cost of operation, cost of the article to that particular retailer who sells at a lower price than you do. It is just a question. I am wondering whether you have any way or not.

MR. STEPHENS: There is no way of ascertaining the average of what it costs the average store to operate. There are certain business overhead charges, regardless of how cheaply you operate. You have rent and fuel and telephone, or you may pay taxes instead of rent, one of the two. And a man is entitled to his own wages. Any extra help he has over that, he would not have it unless he was doing the volume. And the more volume they do, the more help you have to have. Therefore there is a fixed cost, regardless of how big or how small a

business may be, and you must take care of that cost before you can start making a profit. And, unless you are making a profit, you are selling as a loss leader.

MR. WHITELEY: Yes, but your fixed cost becomes divided up on the units sold, and the more units you sell the smaller burden of fixed cost there is on each unit.

MR. STEPHENS: I grant you that, but there are two points you cannot go beyond. There is the point where you are breaking even on your sales, and the point where you start to make a profit.

THE CHAIRMAN: That is true, that you do have a certain amount of cost. Those costs do vary, of course. If you are on a main street in a big city, a main business street, you pay a much higher rent or higher taxes than you would pay if you were two or three blocks away, where business is not looked upon as being generally as profitable. You are in a better position if you can persuade people to come to that store as readily as they would have gone to a store on the main business street. You may do as much or nearly as much business then, and at a much lower rent. Your light would not vary very much, except according to the size of your store. But, one man may sell, we will say, $50,000 worth of appliances in a small business, and another man, with not much larger premises, will sell $200,000 worth. The overhead per unit is substantially less in that case, and it is rather difficult to decide exactly

how to compare the two, and arrive at an exact understanding of what the overhead is in each case.

MR. SMITH: As we say, it is very hard to define a loss leader, now or in the future. And in the set-up today, since the loss of resale price maintenance has stripped the retailer of any protection he may have had whatever--making him possibly the only class in our economy that has no type of protection.

We have farm support prices, and we have tariffs for our manufacturers, and the labour unions, which are a form of association in business, sell their labour. But there is no way that the retailer can combine to set up prices with a sales markup, so that he may live.

To enlarge upon this theme, the perfect way for the public to get merchandise cheap would be to have a group of huge supermarkets distributed at intervals, and no small stores--to enlarge upon this theme of no protection or no price maintenance.

THE CHAIRMAN: I think your brief says that there is another theory--it contains another theory different from that, does it not--that if you just had a few they would be able to raise prices.

MR. SMITH: That is what I meant; you would have this few. You would have no suburban merchants. You would not have your little store around the corner to ask whether you needed to use a ground coat of paint, or to ask if he would cut you a pane of glass, or something of that sort. I am sorry to

drift, Mr. Counsel, but we cannot define a loss leader--only on the definition that that kettle, that is sold by those people at $9.50, costs our people $9.45. We know that, buying through the regular channels in Western Canada, and even in Eastern Canada, that kettle cannot be sold profitably at $9.50.

Now, with this repetition of sale, we have no doubt--and, of course, we cannot check; we have no power to look at this company's invoices--but over the past year we have no doubt that he has bought kettles at some time or another at our legitimate price, because there has not been that much distress merchandise available in those kettles.

MR. WHITELEY: On the other hand, the featuring of a single article over a lengthy period may produce effects you indicate; but if the very narrow margin of sale is confined to a small number, then its effects must likewise be limited.

MR. SMITH: The effects of sale are confined to--I did not quite understand your question.

MR. STEPHENS: I am not clear on that, either.

MR. WHITELEY: Well, I think you are suggesting that these items which are featured in the way you described are few in number. There has been a kettle, and perhaps a lightweight iron, and perhaps one or two others.

MR. SMITH: But there is the other fact--the fact of those loss leaders bringing people into

these stores to buy major appliances, and other merchandise. They are taking customers away from the other stores.

I would venture to say--and I would not like to name any percentage--but I would venture to say that out of all the people who bought those electric kettles at this one store, many of those people became purchasers of major appliances.

MR. GERIN-LAJOIE: But is it your view, Mr. Smith, that repeated advertising like this of a kettle, for instance, has the effect of bringing people in? Apparently you have just mentioned that people go into your store, and ask for kettles at the same price?

MR. SMITH: And our people cannot afford to sell them or to stock them. In some cases they will take a loss, for a regular customer. But in many cases they do not come into our stores.

MR. GERIN-LAJOIE: Not even if it is repeated for months, as it appeared to be? Am I right--has it been repeated for months?

MR. SMITH: Oh, yes.

THE CHAIRMAN: It seems that to the extent that it becomes the established price, then if the regular dealers will sell at that price and have it available, some of the leading effects would disappear, because it does not lead the people into a particular store if they could get the same article at the same price in a great many other places. That is what counsel is getting at.

MR. SMITH: Your small suburban store operates very closely. I'll venture to say that 50 to 60 per cent of our smaller hardware merchants in this city only take a bare living out of their business. When they start meeting these cut prices and loss leadering, and making no money, it hurts them. A man is possibly taking $2,500 a year by way of a living out of a small store. If he loses $500, he is hurt.

THE CHAIRMAN: We are not suggesting that if a small dealer meets a heavily cut price that it does not hurt him. We are merely suggesting that if they all do it---

MR. SMITH: They would switch to some other article.

THE CHAIRMAN: Then the leading effect, that is, the effect of leading people into a particular advertiser's store, is reduced quite a bit.

MR. SMITH: They would switch to some other article. Then, another thing enters the picture, that the very small store cannot run these large ads. And that brings up the other point I wish to mention, that our people are substituting inferior quality merchandise.

MR. WHITELEY: Why do you express the opinion that any substitution is inferior?

MR. SMITH: Well, we have other makes of electric kettles which we know to be inferior--the finish and the protection in the kettle. We know them to be inferior products.

THE CHAIRMAN: Are they all alternatives?

MR. SMITH: They always sold at less than, let us say, G.E. kettles. Another make of kettle I have in mind always sold a few dollars less than the G.E. kettle.

MR. WHITELEY: I am thinking of the kettle produced by General Steelwares, which is about the same price as the G.E. kettle.

MR. SMITH: It is not inferior to the G.E. kettle. We have other makes, though, that are inferior. The General Steelwares kettle is in the same classification as the G.E.

THE CHAIRMAN: Is the G.S.W. being loss leadered?

MR. SMITH: Yes, we have an ad on the G.S.W. in there.

MR. WHITELEY: There are some English kettles?

MR. SMITH: Yes, one called Everbright.

MR. WHITELEY: Are they inferior?

MR. SMITH: I would say the finish is inferior. It has always sold as a cheaper kettle. But our people can buy that today and sell it for $9.50, and make a little money--but not much. In fact, they would not even make their regular markup. But they can still make a slight profit from selling it.

THE CHAIRMAN: Is it more than five per cent gross?

MR. SMITH: Yes.

MR. STEPHENS: Well, we have been talking kettles for some time. The reason they came up is that they have been the article that has been loss leadered longer than the rest. But in the last three months many other items are getting into the same category as the kettle. And if this is allowed to continue--well, the prices of those things will be established, just the same as it has been on the kettle.

We are just starting in on this loss leader thing, so far as I can see, in Vancouver. It has only been the last three or four months that these other items have entered into the picture. It has been the kettle that has been the leader, all the way through. But you take the floor polisher, or the toaster, or the grill, or the Coleman burner, and many other items--they are now being advertised daily, and will be established loss leaders.

MR. GERIN-LAJOIE: In this connection, Mr. Stephens, I am looking at advertisements of other items--items other than kettles; and it would seem, roughly, that the difference between your cost and the price advertised by the retailer in question is about from 10 per cent to 15 per cent; is that right?

MR. STEPHENS: Yes, in some cases.

MR. GERIN-LAJOIE: In most cases?

MR. STEPHENS: Yes.

MR. GERIN-LAJOIE: Apart from the kettle?

MR. STEPHENS: Yes.

MR. GERIN-LAJOIE: If there is such a difference in price, which would appear to you to be their markup of from 10 to 15 per cent, would you not conceive it as possible that they might get those articles at a lower cost than your cost, and that their markup might, accordingly, be 15 or 20 per cent, instead of 10 or 15 per cent?

MR. STEPHENS: But their resale is $39.50, and our cost is $41. They are selling it at less than what it costs us.

MR. GERIN-LAJOIE: That is a floor polisher?

MR. STEPHENS: Yes.

MR. SMITH: $39.50 as against our cost of $41.93.

MR. STEPHENS: You have your figures reversed there, have you not? This is our cost, and this is what they are selling it at.

MR. GERIN-LAJOIE: In the case of the floor polisher you are all right. In the case of the bathroom scale they sell at $5.95 and your cost is $6.65 for the same make?

MR. STEPHENS: Yes.

MR. GERIN-LAJOIE: The make is not mentioned there.

MR. STEPHENS: But we can tell. It is as illustrated.

MR. SMITH: That is illustrated in the advertisement. The illustration describes it.

MR. STEPHENS: Either it is false

advertising, or that is the scale we describe in our cost there.

MR. GERIN-LAJOIE: Then, a portable gasoline stove---

MR. STEPHENS: I would like to scratch that one out. That was another one that we should not have mentioned.

MR. SMITH: We are only asking you to look at the numbers where you would take a cost plus overhead.

MR. GERIN-LAJOIE: Leaving this particular instance, would you say that it is possible that new methods of merchandising--let us, for instance, take supermarkets--might lower the cost of retailing in the appliance business, as it did in the food business? I am just taking this as an example.

MR. STEPHENS: Undoubtedly it will; there is no question about it--but not to the extent that you are selling an article for less than cost.

MR. GERIN-LAJOIE: Quite so. I am putting aside these particular advertisements you have mentioned. But I wonder if your proposal, that we go back to the former situation with resale price maintenance--whether under that situation there would be no incentive to develop such new methods of merchandising.

MR. STEPHENS: No, because the articles that we are suggesting should be price-maintained by the manufacturer would be premium articles, articles that are absolutely stood behind by the manufacturer.

MR. SMITH: And competition will always have its effect.

MR. STEPHENS: There is always competition that will bring in another article that you can kick around all you wish.

MR. SMITH: But there are new methods of merchandising--and you will pardon me if I answer this. Regardless of resale price maintenance, we have not stood still in merchandising. Resale price maintenance has been out since 1951. Just to answer that question, there were new methods of merchandising developed before 1951. There were forward steps taken to lower merchandising costs. Competition always forces people into line with low-cost merchandise--even from a manufacturer's maintained price. To answer your question--to have resale price maintenance does not make the world stand still.

THE CHAIRMAN: You mean the competition resulted in the maintained price not being maintained, or what?

MR. SMITH: Mr. Gerin-Lajoie's question was that, with the maintained resale price, would there be no incentive for a store to lower its cost of operations and bring in better methods of merchandising.

THE CHAIRMAN: But in your commenting on it I thought you said that competition and the introduction of new and improved methods had forced prices into line, even where they were maintained.

MR. SMITH: That is right.

THE CHAIRMAN: Just how would that operate on a price-maintained article?

MR. SMITH: Even on price-maintained articles, the price has lowered over the years.

THE CHAIRMAN: Do you mean the manufacturer would lower it?

MR. SMITH: That is right.

THE CHAIRMAN: The manufacturer would lower it so as to---

MR. STEPHENS: The manufacturer would have to lower it to meet competition.

MR. SMITH: He would have to lower it, and then your retail markups have gradually dropped. At one time the hardware trade averaged 40 per cent markup. Today it is only 28 per cent. There has been a 12 per cent drop in markup across the country. They have not stood still.

MR. FAVREAU: That is the average markup on suggested prices?

MR. SMITH: There was at one time a 40 per cent gross margin; today it is 28 per cent--gross profit.

THE CHAIRMAN: Profit on selling price.

MR. SMITH: Yes, that is right--28 per cent today across Canada. At one time it was 40 per cent. There is a 12 per cent drop. And it has taken place every month, and it will continue to drop, even with maintained prices.

MR. GERIN-LAJOIE: Would there be the same

incentive, for instance, if you have maintained prices by the manufacturer? Would you conceive it possible that anyone might open an appliances supermarket with G.E., Westinghouse, Sunbeam--articles of that kind which would be all price-maintained, and which could not, with resale price maintenance, I imagine, be sold under a certain level--could not be sold at only 15 per cent markup, for instance?

MR. SMITH: I will answer that. I was in the appliances business. I spent 13 years in it. We were a very efficient organization. I think that we were possibly the largest suburban store in Toronto at that time. We sold appliances and we sold a lot of them, in the maintained price class. We did not charge any finance charge, to make up for our efficiency in the volume we were doing out of a small suburban store. We were doing very good volume in those days, out of a small suburban store. So we cut the finance charge.

THE CHAIRMAN: Absorbed it?

MR. SMITH: Yes.

THE CHAIRMAN: So that it made no difference whether they paid cash or bought on time?

MR. SMITH: We had a small cash discount. There was always, on big appliances--the manufacturer allowed you to give something, so long as you did not get too far out of line with your cash discount.

THE CHAIRMAN: The maintained prices were not strictly observed.

MR. SMITH: They were a maintained retail

price. Some firms charged it. On major appliances it has never been strictly maintained. There has always been some level. But then, you were never allowed to take a man's appliance and put it in an ad and slash it 25 per cent, and ruin the sale of that article for other dealers.

THE CHAIRMAN: Would you say it is possible to maintain a strict price on large appliances, having in mind turn-ins?

MR. SMITH: No, not on large appliances, no. But in the small appliances it has been very well maintained for years.

THE CHAIRMAN: Because that particular way of cutting prices, by allowing a large turn-in--does not apply to any great extent on the small appliances, is that so?

MR. SMITH: That is what I said earlier, that there used to be the old big trade-in allowance, even before resale price maintenance was thrown out.

MR. STEPHENS: I believe the biggest lever--if you can call it a lever--that there is in solving this problem, is not the question of maintaining the prices to the public, but of the manufacturer having some control over his brand of merchandise.

The manufacturer spends millions of dollars advertising a brand name. He puts it on the market. And unless that brand name is protected by the merchant, by a good merchant handling it and selling it at a fair price, and giving as good service as he can give to that item--if the

manufacturer is not in a position where he can control that article--and he is not in that position now--then all his money and effort and advertising is down the drain. The product becomes a loss leader and is kicked around by everybody. And people are selling it for less than they should sell it, and they are not giving service on it. So the public are not getting the benefit of all that money the manufacturer has put into it.

THE CHAIRMAN: When you say "price control by the manufacturer" on an article, does that not mean a price maintained by the manufacturer?

MR. STEPHENS: Yes. But what I mean is that the idea of price maintenance is not as vital to the public or to the merchant as having the manufacturer be able to control his product. In other words, if large firms, large manufacturers, sell a quality article to a store, and that store cuts the price of that article by 25 or 50 per cent less than the suggested resale price, the manufacturer today has no recourse because he cannot refuse to sell to that man. But without the present law he can.

THE CHAIRMAN: Supposing the law which prohibits resale price maintenance was abolished, so that the manufacturer could attempt to maintain prices, as he did formerly. How would it work out with regard to these small appliances which, as we understand it, are normally handled through jobbers, through the retailer? These retailers who are

cutting prices--and again, we are informed--usually buy from several suppliers. How is the manufacturer going to stop such a retailer from getting goods and cutting prices?

MR. STEPHENS: By refusing to sell the jobber.

THE CHAIRMAN: Cut all his jobbers off?

MR. SMITH: Yes, and he will do it, too. General Electric just cut their jobbers, terrifically, in this province. I understand it was 27, and it is down to eight.

THE CHAIRMAN: How can they tell whom he is receiving the goods from, if he is buying from a number?

MR. SMITH: A lot of these things have serial numbers, or they could put a tracer on an article, through various jobbers.

MR. STEPHENS: It is surprising how quickly things get around--as to who sold who, when a store starts kicking an article around.

THE CHAIRMAN: I can understand it being possible to follow it by a serial number. We had in another industry an example of a dealer who purchased from a number of wholesalers, and every one of those wholesalers was questioned about it,--as to how much they had sold. And if you added up all of their sales to him, it was only a very small fraction of the goods that he sold, and that he had got from somewhere. Now, either somebody was not telling all the truth, or there were other sources

of supply nobody knew about.

MR. SMITH: Sometimes you can trace it. Sometimes it will not come out in an inquiry of this nature, sir. But if a manufacturer definitely goes out to trace down where a dealer got some articles, he can find it out. Business is not that leak-proof today that some shipping clerk or some salesman, or someone else, does not let the information go loose.

MR. STEPHENS: And not only that, but in most cases where brand lines are sold through price protection, they are sold through agencies. And the manufacturer has complete control of those agencies. He knows what is going on, what is going to that store.

THE CHAIRMAN: In the large appliances field, sometimes it is handled in a somewhat different way from the small appliances.

MR. SMITH: Serial numbers can be traced.

THE CHAIRMAN: In the large appliances, they frequently sell direct to the retailer, if the retailer does business in a substantial way.

MR. SMITH: And, further to this, regarding confusion to the public; from the advertisements of appliances, the public do not know what they are buying today--whether they are buying a new model or whether they are buying something with a gadget left off that they want. The ad will state, "Nine cubic feet--refrigerator"--and usually they will show a picture of the refrigerator with the door

closed--"Large saving"--and so on, and so on. The public do not know what they are buying today. Many of these major appliances--on many of them the loss leadering people, or the price cutters, are charging terrific finance charges. Competition is only waking up to that today. And we have now in this town, I am happy to say, firms who are advertising, "No interest and no finance charges".

MR. WHITELEY: Do you say you are happy to see that?

THE CHAIRMAN: You think it is a good thing?

MR. SMITH: Yes, because it then brings the basic price out. The price that the consumer is going to pay, plus his finance charge, will have to be compared to the regular price. We feel--and we cannot prove these statements, so I do not feel that they should be reported--but we do feel that a lot of these cut prices are picked up by large finance charges.

THE CHAIRMAN: The feeling I would have with regard to the suggestion that it is a good thing to have sales without finance charges is this, that if I went to a firm that said to me that the price is the same whether I pay cash or buy on time, I would go somewhere else. Because I pay cash.

MR. STEPHENS: That normally is not the policy. If you go into a place and offer cash they will offer you a discount, to which you are entitled.

MR. SMITH: Yes, which you are entitled to.

THE CHAIRMAN: That is what I feel. If they said, "Your price is the same, whether you pay cash now or spread it over the next two years", I would not buy there.

MR. SMITH: What I was aiming at is that they are bringing out the point by making people compare the retail selling price, plus finance charges.

THE CHAIRMAN: Yes, but if you give a discount for cash you still have some variation--except that you know what the discount is, then.

MR. SMITH: You have quite a time when you go in as a cash buyer to some of these loss leader companies around town, on a major appliance.

THE CHAIRMAN: They will not take your money?

MR. STEPHENS: They will not take your money.

MR. SMITH: Well, they will take your money eventually. They may take it--but they will add charges for delivery, and charges for this and charges for that and the other thing.

THE CHAIRMAN: Even when people were not loss leadering, I can remember having a salesman say, "You would not want to pay cash. Nobody pays cash."

MR. SMITH: That is right. But I would like to bring up this confusion that exists in the minds of the public today. When you had a brand name, and they knew they were buying a quality product, and backed by a quality company, it was all right. But today they do not know what they

are buying. They are seeing refrigerators imported from the United States and being sold in this town--and actually, service with them would be very difficult. They are American makes, and it is hurting Canadian manufacturers.

MR. WHITELEY: Do you think that has been stimulated by the absence of resale price maintenance?

MR. SMITH: Oh, yes, they must compete with this loss leadering, so they are bringing in cheaper brands, inferior makes of refrigerators.

MR. STEPHENS: Mr. Chairman, I have been following you gentlemen all the way across the country, through the various articles in the newspapers, and it looks to me as if all the way through, regardless of where the argument starts or finishes, it all ends up with the idea of the Government taking action to put back the control of prices.

THE CHAIRMAN: That is a recommendation which has been made frequently.

MR. STEPHENS: Yes, that seems to be the only answer that we have to the situation. Because if a law was passed, and if we asked for a law to be passed to determine what a loss leader was and to control loss leadering, I think it would be utterly impossible.

MR. SMITH: In your own Commission in 1935, your own Government Commission, they said that these laws could be obsoleted. I think in the back of that little book which Mr. Lajoie has in front of him, there is a statement by the Commission stating

that--and I think this was in 1935--stating that, due to changing business conditions, they would soon be obsolete.

MR. STEPHENS: This matter was discussed in the House of Commons the other day. Did you see that in the newspapers?

THE CHAIRMAN: I think we saw it. In fact, I think we saw Hansard.

MR. STEPHENS: Oh, yes, I suppose you would. And the Opposition there seems to be under the impression that the only solution is maintained prices, again.

MR. GERIN-LAJOIE: Gentlemen, I would like to put a question to you in this connection. It would appear from what has been submitted to this Commission up until now, that there have been variations in prices which did not exist to the same extent prior to the present legislation. I think that is quite true. And some retailers have called that, when speaking before this Commission, chaos. But the question which might be put to you and the other retailers would be this--and may I say that we are just trying to find out the facts. I would not like to appear to be taking an opposite position. We are just trying to find out the exact views of everyone. Would it not be possible that, after a time, all this would settle down, and you would have certain variations in prices between one retailer and another, but that that would be considered as just a free trading competition,

which is an incentive to better methods of merchandising and better prices for the consumer.

Of course many people have appeared before this Commission and suggested that we should go back to the former situation. But the question is, would that leave enough competition, or would that really be the best situation so as to have good competition for the purpose we have in mind.

MR. STEPHENS: I suggest if this goes on long enough, you will not have any competition, because all the small businessmen will be out of business, and you will only have the big stores to contend with.

MR. GERIN-LAJOIE: I appreciate your point of view, but is it not true that the same argument was put forward when the chain stores started to operate? And is it not true that there is still quite a number of independent grocery stores in the country?

MR. STEPHENS: Not half as many as there were four years ago.

MR. SMITH: There have been many of them eliminated--many of them.

MR. GERIN-LAJOIE: Yes, but does that mean that there is no competition between chains and independent stores?

MR. STEPHENS: The chain store today--at least, the independent chain store today--is not the same grocery store it was four years ago. The independent store today is a little hole in the

corner that sells ice cream, and that sells up to midnight, at night when the other stores are closed. The small merchant today in the grocery business-- and I am not a grocer, but I know what happens, because of my neighbours, in the district--if a small merchant today in a grocery business was to keep the same hours as the supermarket, he would not be in business for three months, because he makes his money when they are closed.

MR. GERIN-LAJOIE: Is that the situation in Vancouver?

MR. STEPHENS: Yes.

MR. GERIN-LAJOIE: Because in other cities grocery stores close at the same time, approximately, or within an hour of each other.

MR. SMITH: In this city the grocery stores stay open terrific hours, and they are open on Sundays.

MR. STEPHENS: 11 o'clock, most of them close.

MR. SMITH: And they are open on Sundays.

MR. STEPHENS: That is when they make their money.

MR. SMITH: That is the only way they can exist, the small grocery stores in this town, today.

MR. GERIN-LAJOIE: In this connection you refer in your brief, first of all, in paragraph 1, to the services which are rendered by the hardware stores and then in paragraph 6 you say that the present situation might lead to another one where inferior goods and lack of service would follow for

the customer. Now, would it be your view that such things should not happen, and that all stores should offer the same service--services such as you have mentioned in paragraph 1--and that they should also offer the same quality of goods? Or would you not conceive it as possible that, in a certain type of store, let us say a chain store, they would not offer such service?

MR. SMITH: I would like to answer that. We are advocating self-service for some of the bigger hardware stores in this town. Now, to operate efficiently those self-service hardware stores they will have to cut out all this business of giving advice, and cutting glass.

It is inefficient for you to go to a man's hardware store and have him give you the service of cutting a pane of glass for you, because the money he would make on that pane of glass is not enough. It is inefficient for him to spend an hour and a half telling you how to use a certain type of paint--and that is a service you cannot get from a supermarket. Because no girl at a check-out counter can tell you the things you must know if you are to use that paint,--that is, unless you are an experienced painter.

There are many services now rendered free to the community. You gentlemen will possibly remember that the last four or five times you walked into a hardware store, the first thing you said was, "I have a problem." Those are the first words you said,

probably. Now, you are given all this free service. If the hardware man stops rendering that service to the community, and gets down to an efficient business, as you call it--or as other advocates of no price maintenance call it--may I say that the inefficient stores are inefficient because they give free service to the community.

MR. GERIN-LAJOIE: Should that condition continue?

MR. SMITH: Perhaps they should make a small charge for that sort of service. Perhaps they should say, "Well, now, look, if you want to know this or to know that, I will have to charge for telling you." But there you would have chaos again.

MR. GERIN-LAJOIE: You talk about cutting glass. Well, if they were to charge 25 cents or 50 cents to cut glass, would that be a bad situation?

MR. STEPHENS: I believe there is a place for both. There is a place for the supermarket and there is a place also for the corner store, the community store. But merchandising must be put in such a situation that they can at least make some money on it. There is no use of the corner store or the small merchant trying to sell things for less money than they cost him, just so that the big merchants can use the loss leader. That is the point. There must be some happy medium between loss leadering and the prices we are getting today, even if the margin of profit was cut.

MR. GERIN-LAJOIE: Yes, but with price maintenance do I understand from you that apparently

some people pay for the service that you render to some other people? That is, if I go into your store and buy an electric kettle with a markup determined by the manufacturer, I pay for your overhead when you cut a pane of glass for another customer?

MR. SMITH: Well, I think that is a little far-fetched.

THE CHAIRMAN: You charge for cutting glass in hardware stores, do you not?

MR. STEPHENS: No.

MR. SMITH: No.

THE CHAIRMAN: But you do charge for the pane of glass?

MR. STEPHENS: Yes.

THE CHAIRMAN: Does not the price of the pane of glass take care of the charge for cutting it?

MR. SMITH: Competition forces you to meet other prices. And in the places where they do not have it---

MR. WHITELEY: I thought that there was a pane list which was generally observed.

MR. STEPHENS: Yes, there is.

MR. SMITH: But you must cut some glass.

MR. STEPHENS: It would be impossible for some hardware stores to carry on with all the sizes required. You carry a 12 x 12 or a 20 x 20 and, invariably, when a man comes in for a piece of glass he wants one 13-3/4 x 1-5/8, or something like that, and you have to cut it for him. Nine times out of ten he will not ask for any stock size. And all

that glass has to be cut.

THE CHAIRMAN: Is not the price normally set to allow for that sort of thing?

MR. STEPHENS: The profit on glass is high, I will admit.

THE CHAIRMAN: The profit is intended to be high enough to permit that to be done without involving a loss.

MR. SMITH: I would like to answer Mr. Lajoie's question. Today you may buy that electric kettle and pay the maintained price on it. Tomorrow you may be the man with the pane of glass.

MR. GERIN-LAJOIE: Quite so, and I am not objecting to that. I am just asking you--and this is my final question on the point--whether you mean that the former situation is better than another one under which I would pay for having the glass cut. I pay so much for the kettle, and I am asking whether you prefer one situation to the other, or consider one situation is better than the other.

MR. STEPHENS: I think I can answer that one. If you get on a bus out there and want to go two blocks, it will cost you 15 cents. If you get on that bus and want to go two miles, it will cost you the same.

MR. GERIN-LAJOIE: Yes, and in London, England, they charge according to the number of miles you ride. So apparently it is a matter of opinion.

MR. STEPHENS: Yes.

THE CHAIRMAN: I think perhaps if this dis-

cussion is going to proceed longer we had better have a few minutes break.

---Recess

---Upon resuming

MR. GERIN-LAJOIE: Gentlemen, I have not many more questions. I wonder if you would have, offhand, examples of what you mentioned at the beginning of paragraph 2, where you say that many of these local merchants have discontinued carrying major and traffic appliances and many other staple lines. Would you give examples, or are you in a position to do that?

MR. STEPHENS: Yes. The answer to the questionnaire will give that information.

MR. GERIN-LAJOIE: Would you explain it to the Commission, please?

MR. STEPHENS: Out of a total of 61, there are 95 per cent still carry traffic appliances. In connection with major appliances, out of a total of 54, there are 54 per cent.

MR. GERIN-LAJOIE: Still carry major appliances. Does this mean that 46 per cent---

MR. SMITH: 46 per cent have discontinued.

MR. STEPHENS: 46 per cent have discontinued carrying them, according to these questionnaires which are all signed and have rubber stamps from each store.

THE CHAIRMAN: Does that mean that they have stopped carrying all traffic appliances?

MR. STEPHENS: No, major appliances.

THE CHAIRMAN: All major appliances?

MR. STEPHENS: Yes.

THE CHAIRMAN: No matter by whom they are made?

MR. STEPHENS: Yes, that is right.

MR. SMITH: This is from all over the province--not just the city of Vancouver.

THE CHAIRMAN: I just wanted to be sure whether they had discontinued certain lines which you say were loss leadered or whether they had discontinued all major appliances.

MR. STEPHENS: The question put was: "Do you still stock major appliances?" That was the question.

THE CHAIRMAN: And they are not stocking them at all?

MR. STEPHENS: That is right.

MR. GERIN-LAJOIE: And in 54 per cent of cases the answer was No?

MR. STEPHENS: That is right.

MR. SMITH: 46 per cent.

MR. STEPHENS: 46 per cent in that case, yes. 29 of them said Yes, and 25 said No. The percentage is not so high in traffic appliances.

MR. FAVREAU: How many questionnaires did you distribute?

MR. STEPHENS: 187.

MR. GERIN-LAJOIE: And only 62 replied?

MR. FAVREAU: That is 46 per cent and

54 per cent of those who replied?

MR. STEPHENS: Yes.

MR. FAVREAU: So that it might not give a quite clear picture of the over-all trade.

MR. SMITH: Many of our people are in remote areas, and this questionnaire was sent out at the last moment upon the advice we received that statistics might help, and so we rushed out the questionnaire.

THE CHAIRMAN: The 187 are your own members?

MR. STEPHENS: Yes.

THE CHAIRMAN: Do you know what proportion of the total number of hardware stores in the province your membership constitutes?

MR. STEPHENS: Mr. Smith can probably tell you that.

MR. SMITH: There are actually 380, but we do not have chains. We have something here that you do not have in other parts of Canada, in that we have chain hardware set-ups. We do not have them as members of our association; and we do not have department stores. Actually we would represent approximately 60 per cent of the independent--perhaps 70 per cent of the independent hardware people in this province, and many of these are very small operations. If you want to get a list--perhaps I should explain this a little further--that in some remote areas hardware is handled through the general stores. But they are listed on the list of hardware people in the province.

But of the main-line hardware stores I would say there would be approximately 260--main-line hardware stores in the province.

THE CHAIRMAN: And you represent 187 of them?

MR. SMITH: Yes, 187. In a place like the Gulf Islands, and places of that type, there are marine hardware, or general stores carrying hardware and things of that sort.

MR. GERIN-LAJOIE: In your view, gentlemen, would it be possible that this abandonment of business in large appliances might be explained by the fact that quite a number of people went into the large appliance business some time after the war, when these articles appeared in great number on the market again? In view of the fact that there was apparently a large market after the controls of wartime, that situation developed. And now the situation has come back to a more normal situation, regarding the market, and actually there might be a place for a smaller number of dealers in such appliances.

MR. SMITH: Under resale price maintenance that would not have mattered. These people were established, some of them for many years, and it would not have mattered. New companies starting would not have driven them out under resale price maintenance.

MR. GERIN-LAJOIE: What I have in mind is this. Let us say, for instance, that between

1947 and 1951 there was an increase in the number of dealers by, let us say, 50 per cent.

MR. STEPHENS: That may be granted. But, by the same token, there was a decrease probably of that amount when war was declared, or during the war. There were quite a number of--well, I, myself, for one, gave up my business to go overseas. And there were thousands more like me. There was less need of or use for hardware stores or any retail stores during the war, because there was no merchandise; you could not buy merchandise.

MR. GERIN-LAJOIE: We were talking about percentages. Would you conceive it possible that between, roughly, 1947 and 1951 there might have been an unusual number of dealers, due to the unusual market at the retail level at that time, and that now we might be going back to a more normal situation, from these two standpoints?

MR. STEPHENS: That may apply in a remote way. But why is it that these people, these hardware people, have not gone out of business? They do not suggest they are going out of business. They say they are doing away with major appliances. They are still selling other merchandise. There must be some reason for that--for their going out of the major appliances business.

MR. SMITH: We have another answer to that, too. In these small towns--many of the replies are from the smaller cities in the province--there have been no new appliance stores

9 started since the war. People are very well established in their districts. They have gone out of the appliance business--and, definitely, not due to new stores opening and selling appliances.

THE CHAIRMAN: Perhaps Mr. Gerin-Lajoie's question might be put differently, with this as a starter. Do all hardware stores habitually carry major appliances, or did they prior to the war?

MR. SMITH: Many of these stores reporting that they have gone out did, sir.

THE CHAIRMAN: What I am trying to get at is this: Could you say it was an almost universal practice of hardware stores prior to the war to carry major electrical appliances?

MR. SMITH: In this province, yes. In Ontario I was in the hardware business for many years, and I know that hardware stores in the small towns carried appliances; but in the big cities they carried very little. But in this province the situation is different.

MR. GERIN-LAJOIE: Gentlemen, is it possible in your view that the gross profit taken by jobbers might explain the wide difference in prices between the manufacturers' price and the retailer's price?

MR. STEPHENS: The large profit taken?

MR. GERIN-LAJOIE: The margin of profit taken. I will put it this way--I will go further--what I am leading up to is this; is it possible that a retailer by combining with other retailers,

and doing a wholesale business, might get better terms than through the jobbers?

MR. STEPHENS: There is no question about it, that that is what it is coming to. We have at the present time three steps in buying--the manufacturer, the jobber and the retailer. And as has happened in the United States, one of these is going to be eliminated. And, eventually, I think it is going to be the jobber.

THE CHAIRMAN: It will not be the manufacturer.

MR. STEPHENS: I think the manufacturer is going into the retail business, or he is going to co-operate with the retail dealer and sell directly to him--or else the jobber is going into the retail business. That is happening in Vancouver almost daily. Most of the best stores today are lining up with some jobber, and he is buying his merchandise at less than normal cost. And we think it is a good thing for the public; we think the cheaper the public can buy, within reason, the better--but not to the extent that it is putting retail merchants in the position where they cannot give service that the public should have.

THE CHAIRMAN: What you mean is that if the cost of merchandising can be reduced, then the price can be reduced and the public will benefit by lower prices and the merchant will benefit by a wider market?

MR. STEPHENS: That is right, to a

certain extent. But if it goes so low that the merchant, for instance, sells a refrigerator at $300 which cost him $200--and this is perhaps a rather ridiculous illustration---

THE CHAIRMAN: It is interesting, anyway.

MR. STEPHENS: He has to cover in that $100 his installation and his maintenance, which lasts upwards of five years. If he is not making that money, he cannot do it. If he is not making money out of it, he cannot do it.

MR. SMITH: Unless he has very exorbitant finance charges.

MR. STEPHENS: Yes, unless he has got big money through financing. And our point is that we appreciate the fact that the cost of merchandising is going to go down, there is no doubt about that, and a lot of the small men in business today are going to go out of business, too.

THE CHAIRMAN: They always have been going out of business, so far as that goes.

MR. STEPHENS: Yes. As I said a little while ago, when I was talking to these gentlemen in the hall, there are a lot of fellows who came back from overseas after the last war and got $4,000 or $5,000 gratuity, and started up in business. They did not necessarily start in the hardware business. Some of them started in the clothing business; and they had no more right to be in that business than the man in the moon,

because they had not had the experience. And they are suffering from it, and they are gradually going out. And it is going to be a case of the survival of the fittest. And we feel it has reached the point with this loss leadering that even the strongest, and those people who have been in business for years and years and who do know their business, cannot stand up against it. And I for one know that I cannot--I know that I could not, if I was in the major appliances business. But I was lucky enough or perhaps I had foresight enough two years ago--when I saw what was happening--to get out of the major appliances business. I sold every piece of major appliances in my store, at cost. I could see the writing on the wall two years ago. I am one of the fortunate hardware men in Vancouver today. I just quit it cold. I knew it was an impossible situation, and I told the rest of the chaps in the association the same thing. But they continued to struggle along, and they are sorry for it. I took all the money I got out of the major appliances and put it into small merchandise, and I am doing a wonderful business, and nobody is hurting me. But if we get resale price maintenance back again I am going to go back into the major appliances business.

MR. GERIN-LAJOIE: You are in the small appliances business?

MR. STEPHENS: I do some small appliances work, but it is not large.

MR. GERIN-LAJOIE: What kind of business is it--small items?

MR. STEPHENS: I am in the hardware business. I sell more novelties, china, bolts, nuts--a variety of merchandise. But I have kept away from major appliances in the last two years. And I was making good money.

THE CHAIRMAN: You are still making good money?

MR. STEPHENS: I am still making good money.

THE CHAIRMAN: But not out of major appliances?

MR. STEPHENS: That is right.

MR. SMITH: But we have many people who have not been as fortunate and who have not been able to make that much.

THE CHAIRMAN: Yes, and it is more difficult in small towns.

MR. GERIN-LAJOIE: I would like to refer to page 4 of your brief, where you mention that there is only a certain amount of business to be had. Is it not your view that there might be larger business to be had regarding the number of items to be sold if each individual item is sold at a lower cost?

MR. STEPHENS: My object there is that if you have 100 stores selling the same article at the same price, and one of those stores puts a big ad in the paper--and these 100 stores are

selling 100 of these articles a week--and one of these stores puts an ad in the paper at a cut price, at a reduced price, that he on Monday morning will sell 100 articles, and the other 99 stores will not sell any. But the sale to the public will be the same.

MR. GERIN-LAJOIE: Would you not conceive it as possible that a person buying, let us say, a kettle at half-price---

MR. STEPHENS: That he might buy two kettles?

MR. GERIN-LAJOIE: He might buy something else with the difference in price.

THE CHAIRMAN: Is it not conceivable that somebody who said that the price was too high would decide that it was no longer too high, if there was a substantial cut? That is, more people might buy, in total, than would have bought at the higher price. Perhaps this would not apply so much to a kettle, but let us say, for example, something like an Electrolux, something of that kind which costs a good deal--or a Bendix washer. That would be a better example. There must be a good many women who have thought the price of a Bendix washer is beyond them, and they carry on with what they have got--and probably they will carry on for a good many years. But if the price of a Bendix washer is reduced by one-half, to make an extreme case, would there not be quite a number of those people who would say that the convenience of it would be worth their putting up that much money, but that

it would not be worth putting up the other larger amount?

MR. SMITH: You feel that instead of 100 there would be 120 on Monday morning?

THE CHAIRMAN: There might be 220, I do not know. But if you widen the market considerably, there is a greater total volume of business. That still does not mean that you would necessarily work at a profit.

MR. STEPHENS: But by the same token if a person wanted a Bendix washer and it was $200, and she knew it was always going to be $200, she would probably buy another brand at $150.

THE CHAIRMAN: That depends upon whether the Bendix at $200 would give her a great deal more satisfaction than the other one at $150.

MR. SMITH: Possibly one of our people would substitute an inferior make of the same type or class.

THE CHAIRMAN: What I am getting at is that if you can reduce the price reasonably you will get a wider market. That is all I am getting at. That is, there will be more people buying the article if the price is lower than if it is maintained at a higher level.

MR. STEPHENS: That is just common sense, yes. When this brief was written, this statement was made looking at it from the point of view of the dealers. For instance, as I said before, if there were 100 stores and only one was cutting the

price, he would get all the business and the others would get none. If they all cut the price at the same time, then they would all still get the same business. Therefore it is only the man who uses the loss leader method who is getting any advantage out of this.

MR. SMITH: You would not widen the market enough to make up for the cut in the price. If one firm advertised a low price and the other 99 came along and met his low price, the widening of the market spread over those 100 would not give them enough to make up for the price cut--by way of increase in profit by the multiplicity of sales. We have today a firm selling 500 washers, 500 washing machines, possibly; they are selling 500 today to make the same profit they made on 200 a year ago. You must eliminate somebody, so that they can sell the 500.

THE CHAIRMAN: I suppose there is no question that if one merchant corrals a major part of the business, which was formerly distributed among a number, then the others will suffer. There is no doubt about that.

MR. SMITH: Unless the others decide to confuse the public, as we submit in this brief--and it is being done every day. Confusion exists in advertising today. The public do not know what they are buying. In the old days when a man came in to buy a refrigerator--you may recall that a few years back when you went in to buy a refrigerator

7 you knew what model and what year you were buying, and you could compare your price and model all over town. But today you cannot tell. If you went out to buy a refrigerator today, unless you were in the appliances business you would not know what you were buying, whether it was a new model or something which had been left over.

MR. GERIN-LAJOIE: Gentlemen, it has been said to the Commission by some retailers, particularly in Toronto, that the spread between the buying price of a retailer and his suggested selling price was unrealistic--that is, that it was too high. What would be your view on that?

MR. STEPHENS: I made that same suggestion to one of the big paint companies not very long ago. The question of price cutting came up by one store, in connection with paint which I happened to have an agency for. The manager of the paint company came down to see me--I don't know why--but he came down to see what I had to say about it. And he smiled when I said to him, "Your biggest trouble in this business is that your margin of profit is too high. That is why you are getting price cutting. The merchant can get by on less than what you are allowing him." He could not fathom my saying that. Nevertheless it is a fact. And when we suggest that a maintained price be put on these goods, we do not suggest that on major appliances it should be 33-1/3 per cent markup to the public. That is what has probably brought this about.

MR. GERIN-LAJOIE: But if you leave it to the manufacturer to determine the price, are you not exposed to that situation?

MR. STEPHENS: No, because the competition will take care of that.

MR. GERIN-LAJOIE: That is the situation you had, apparently--because you have at the present time suggested prices. And apparently---

MR. STEPHENS: No; but if this was all summed up and brought to a head I am pretty sure--and I cannot say this for certain--but I am pretty certain that after what has gone on in the last few years the manufacturer would suggest a lower retail price than they have suggested at the present time.

THE CHAIRMAN: You mean that what has happened since the abolition of resale price maintenance has taught them that lesson?

MR. STEPHENS: Yes. I do not believe that the manufacturer will expect the retailer to make 33-1/3 per cent, for instance, on an article at $300. I do not think he should.

MR. WHITELEY: You think that competition that has been brought into play has demonstrated that you can get by on lower margins?

MR. STEPHENS: Yes--but not so low that you are selling them for less than what they cost.

MR. GERIN-LAJOIE: That is all I have to ask.

MR. WHITELEY: Do you think, from the

viewpoint of the appliances trade in general, apart from price cutting, that the addition of very large items such as automatic washers and driers, and automatic dishwashers, and so on, would leave much scope for the small hardware merchant to engage in stocking and selling any range of major appliances?

MR. STEPHENS: I do not think the small hardware merchant ever intended to sell a large range. I think he more or less intended or wanted to supply the people in his own district. I do not think he intended to go out and sell anything outside his own district.

MR. WHITELEY: But even in his own district, take the average consumer who is considering buying a large major appliance. Surely a purchaser would not be satistifed just to go and look at only one item which a small hardware merchant could afford to carry in stock.

MR. STEPHENS: There are usually two or three hardware merchants in one district. Heretofore, when they had price maintenance, you would not see a G.E. and a Westinghouse in the same store as you do today. In those days one dealer would have Westinghouse and another dealer would have G.E. and another dealer would have Astral. The people in the district knew where to go. If they wanted an Astral they would go to the Astral people and look it over, and then they could go next door and look at the G.E. and decide on quality what they wanted, more than on price.

MR. SMITH: May I answer that?

MR. WHITELEY: Take even one line. Let us say he had a G.E. agency, and he tried to stock all the G.E. items.

MR. STEPHENS: There is no reason why he should not.

MR. WHITELEY: No, but would not his business be substantially larger than that of a small hardware merchant?

MR. STEPHENS: No, he would only require one refrigerator, one of each size perhaps--or even one size--one refrigerator--with the features in literature. Probably he would have one or two models of one iron, and one or two hot-plates.

MR. SMITH: I was going to say that we have several large hardware stores. In the small towns a hardware merchant is a pretty big merchant in many cases. He carries a large stock. Now, due to the fact that his volume of business is confined to that small town, he is confined to--well, I could name a town of 12,000 population where the hardware merchant sells all major appliances and keeps a good stock. I could name some in this province who keep a larger stock than do the fairly good sized appliance firms. He is only dealing with a market of 12,000 people. Now, then, you have your city merchant who is loss leadering to a market of half a million or possibly more. And when he is advertising that he will ship anywhere in the province, he is marketing to a market of

$1\frac{1}{4}$ million. He could then go out and take that whole market, where the man in the small town is confined to his own market. He cannot possibly get the volume to make up for the loss in price.

MR. WHITELEY: But the point I am getting at is that if a hardware dealer really wishes to deal in appliances, he must then enter into that field in a pretty substantial way.

MR. SMITH: In a small town the hardware dealer is the appliances dealer in most cases.

MR. WHITELEY: And his inventory of appliances might be equal to or greater than his inventory of hardware.

MR. SMITH: Our own Premier, Mr. Bennett--and I will quote his store because I lived in that town formerly--I would say when I lived in Kelowna Mr. Bennett was carrying possibly a stock of $8,000 or $9,000 in appliances--which is quite a bit for a small town appliances store. That was just in straight appliances. I would not like to quote his name for the record, possibly, but I would state that.

And now, in the small towns we have many hardware stores with as high as $150,000 stock. We have some big hardware stores in the small towns--bigger than they are in the city of Vancouver, sometimes.

MR. WHITELEY: Well, that more or less makes my point.

MR. SMITH: But they are forced out of

business because they have not got the large market. Even with their ability to stock the big stock they are being forced out because of this loss leadering to a large market. They cannot loss leader themselves to a large market. They have only their 12,000 population in that town. I submit that.

THE CHAIRMAN: They have a relatively high investment, and that portion of the overhead of doing business which is related to the capital invested in the appliances is relatively high, as compared with the stores in the larger cities. Therefore their margin has to be higher, I suppose.

MR. SMITH: That is right, and they only have 12,000. A firm in a small town cannot merchandise like a man in a large city. But if a man in a large city is advertising in--well, perhaps I should say that our case in British Columbia is different from the rest of Canada, in that we have a scattered population, a population that is scattered in remote areas.

We have the large newspapers in Vancouver, but we have no large newspapers outside of our local newspapers in the interior of British Columbia. We just have our large newspapers in Vancouver, and they go up to the interior. Tomorrow morning the residents of Kelowna will get today's Vancouver Sun or today's Vancouver Province. The resident of Kelowna will see these big loss leader ads asking him to write in, that they will ship anywhere in the province. His local dealer cannot get the huge

volume and cannot possibly hope to compete with that price, no matter how efficient, how rich or how large a stock he may carry.

MR. WHITELEY: Have you many instances of these large dealers in the outside towns who have abandoned the appliances field?

MR. SMITH: Yes. They have not abandoned it. I have not taken them in that classification. But I have one in a small town outside of Vancouver who shows a 95 per cent loss in major appliances in the last year.

MR. WHITELEY: But what about the ones who are not adjoining metropolitan areas?

MR. SMITH: This man is about 70 miles from the metropolitan area.

THE CHAIRMAN: What do you mean by a 95 per cent loss?

MR. SMITH: His major appliances business is down to the extent of 95 per cent.

THE CHAIRMAN: Reduction in business?

MR. SMITH: Yes--"Do you still stock major appliances? No."

MR. WHITELEY: Have you any idea of the volume he had in that field?

MR. SMITH: No. But this gentleman is quite prominent in his community; and I can assure you that he is wealthy enough to stock a large stock, if he wished to. His father practically founded the business, and he is very prosperous.

THE CHAIRMAN: He would not stock much---

MR. SMITH: He had a good stock. I recall when calling on him a couple of years ago that he stocked quite a large stock. He operates a large business in Mission City, to name the place.

THE CHAIRMAN: That means that he has abandoned large electrical appliances?

MR. SMITH: Yes, absolutely. He states right here in this statement: "Do you still stock major appliances? No."

MR. GERIN-LAJOIE: That is a reduction of 100 per cent, not 95 per cent.

THE CHAIRMAN: By his choice; but apparently 95 per cent reduction before he did that.

MR. SMITH: Yes, before he made his own choice.

THE CHAIRMAN: Do you know whether many major dealers, large hardware merchants, in other comparable towns and smaller cities have gone out of the business entirely, or are those who have gone out of the business mostly smaller merchants?

MR. SMITH: We did not divide the replies that we received in that way, and I am unable to inform you. However, for further information, we could get that information, if requested, and make a survey of that type of dealer for you.

THE CHAIRMAN: It would be merely to get the picture as complete as we could have it.

I believe that completes all the questions we have to ask you, unless Mr. Gerin-Lajoie

has something further.

MR. GERIN-LAJOIE: No, I have not, Mr. Chairman.

THE CHAIRMAN: Then, gentlemen, we express our appreciation to you for your brief, your attendance this morning, and the very fair and frank way in which you have answered the questions put to you. We will consider your brief and the statements made, in conjunction with all the other information we have. Finally we will endeavour to come up with an answer--but we do not know just what that answer will be at this stage.

As we have nothing further for today, we will adjourn until tomorrow morning at 10 o'clock.

---Whereupon the hearing adjourned until the following day, Thursday, July 8, at 10:00 a.m.

Canada

RESTRICTIVE TRADE PRACTICES COMMISSION

LOSS-LEADER SELLING

TRANSCRIPT OF EVIDENCE

Vol. 18

VANCOUVER

JUL 8 1954

C-O-N-T-E-N-T-S

VANCOUVER SITTING

(Fourth Day)

--o--

RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

an Inquiry

Regarding Loss Leader Selling.

--o--

Hearing held (in public) in room 414, The Court House, Vancouver, British Columbia, July 8, 1954

--o--

PRESENT:

C. Rhodes Smith, Q.C.,M.A.,LL.B.,B.C.L., Chairman

Guy Favreau, Q.C.,B.A.,LL.B., Member

A. S. Whiteley, B.A., M.A., Member.

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APPEARANCES:

Mr. Paul Gerin-Lajoie	Counsel for the Commission
Mr. R. M. Davidson	Secretary to the Commission

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REPRESENTATIONS:

By Mr. Alex Forst, Vancouver.

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THE CHAIRMAN: I understand this morning, Mr. Forst, that you wish to make a presentation, I gather, on behalf of your own organization; is that correct?

MR. FORST: Yes, in a sense it is; but it

is more in the interests of electrical merchandising in general. Because I do not think we as retailers really require protection in that sense of a list price, you might say. It is just more of a general viewpoint on the matter of what has occurred to the electrical appliances business. Naturally it has an effect on other firms, and it has an effect on our firm.

THE CHAIRMAN: Have you a brief?

MR. FORST: I submitted a brief.

THE CHAIRMAN: Perhaps you submitted only one copy.

MR. FORST: I should have given several copies.

THE CHAIRMAN: We do not have any before us. So if you are dealing with it, perhaps you might go slowly so that we will be able to follow you.

MR. FORST: Yes. Do you wish me to read it?

THE CHAIRMAN: That is the best way, and then you can make comments as you go along.

MR. FORST: As I said earlier, the purpose of my brief is to outline what has occurred to merchandising since the abolition of fixed pricing. The removal of the aforementioned restraint has provided an opportunity for some manufacturers who are not too much concerned with ethics to introduce a form of "gyp" manufacturing with no "service policy" and, of course, no spare parts. That has

occurred, I think, in the east, and has occurred here where a manufacturer just gets started on a shoestring with the idea of getting in on a lucrative business in a hurry. And some merchants, either advisedly or otherwise, have fallen alongside with it, because there was an opportunity there to make more profit, because of the list price of merchandise having been cut to the point where there was no profit in it. To some degree that has developed. I would not like to say, for sure, that that was caused by the lack of profit or the cut prices in list price merchandise, but it certainly has occurred in the last couple of years.

THE CHAIRMAN: The legislation abolishing resale price maintenance would hardly affect a manufacturer who wants to set a price for his goods that is very low.

MR. FORST: Let me give an example. Say, for instance, the margin of profit on a well known product, General Electric, for the sake of argument--because it is better known than most others--that the list price was reduced so low, due to competitive conditions--that is, the going price--and remember that the list price is developed whether the manufacturer sets it or not. The dealer sets it, finally. We do not know where it is from day to day.

But let us say it becomes unprofitable for a merchant to handle it. Then the merchant might look for something else. He might look for some unknown brand on which he could make a profit.

It might sell at the same price as a known brand, or more or less; but there he does make a profit. It does give an opportunity for someone to get in there, possibly; whereas, if there was a reasonable amount of profit on the known brand of merchandise, they would not go for this unknown brand. I think that has developed.

And you must remember another point, that many large retail organizations are as accepted nationally as manufacturers. And if a well known retailer either in a local area or nationally recommends a product, sometimes that has as good a name as a national product, he can control that product, and get his normal profit. Because he might have control of the manufacturer, in a particular instance, or he can at least set the price where he can have it made to his design, and so on. That is the point I am getting at there--the point I am trying to make.

In other words, the nationally owned product is sacrificed because the merchant can get another product on which he can make a larger profit, because he can control the price. Because he has it alone--and there is no law to prevent him from doing that.

THE CHAIRMAN: If the other product is as good and he can obtain it for less, perhaps the national manufacturer should learn something.

MR. FORST: That is true. But, unfortunately, I think the experience is that it is not

as good.

Another thing that has occurred, or that could occur--and has occurred to some extent--is something along the same lines as the first statement I made; and that is that there might be an inclination to import goods. Again, you could import exclusively; and this has been done before, of course. But there might be a tendency to do it in greater quantities--and again for the same reason. In other words, you might be able to import a certain line from the United States or from some other country where you might have the exclusive right for an area or a country, and you might set your own list price again. And again you might make a normal profit.

But that would be at the sacrifice, you might say, of the Canadian manufactured lines. That is along the same lines, only it is another possibility.

A practice which has been carried on by retailers, I am quite sure--because I see it in ads from Toronto to Vancouver--is a matter which I call footballing a known line--a well-known line--and advertising this line. And then, because of the lack of margin of traffic in it some dealers will then try to coerce a customer into buying something else in which he has at least a normal traffic. And I am sure that is going on.

For instance, a dealer could very well get hold of some well-known line of goods, and he might have only two or three of them. He would

advertise them--advertise that he has this famous make of refrigerator or of television sets, if you wish. But he would not sell those--or, at least, he would try to avoid selling them. He would sell something else. In other words, the whole matter of the consumer being better off is eliminated there because he is not any better off, because he is buying something on which he is paying the regular traffic, or even higher than the normal traffic. The dealer is taking advantage of the manufacturer who is trying to maintain a decent level of manufacturing, or a decent level of pricing for his products. But he is taken advantage of by this unethical dealer.

THE CHAIRMAN: Is it not true that dealers have always done a certain amount of that kind of thing?

MR. FORST: Yes.

THE CHAIRMAN: They have advertised goods, perhaps not solely with the idea of selling those particular goods.

MR. FORST: That is right.

THE CHAIRMAN: But when people come in they show them various other things which may be better from the point of view of the dealer.

MR. FORST: I think the tendency, though, is greater now than it was before.

I put it this way, that the reason for doing it is greater. And let us give another example. Before the war and right after the war there was a great deal of advertising in the newspapers

of nationally known lines at regular prices, with the idea of promoting those lines and pointing out the value and the desirability of owning that particular refrigerator, or electric washing machine, and so on.

These were national lines, and a lot of business was developed through that in a normal and orderly manner. Today if you pick up a newspaper--well, I do not think you can find a national ad by a retailer for the simple reason that there would be no point in advertising a nationally known line at the regular normal markup, when you do not know what the price is going to be the next day.

So there is no institutional or promotional or intelligent advertising going on now. It is only a matter of who has got the biggest price figure, and who has got the lowest price figure--the biggest in type and the lowest in price.

MR. WHITELEY: That is when price is mentioned.

MR. FORST: It is the only time they run ads--when price is mentioned.

MR. WHITELEY: I seem to have seen a number.

MR. FORST: There are comparatively few of them. From what I have observed--and I am thinking of Toronto, which I think has about 40 per cent of the market--and Vancouver, where our own market is concerned, and where there are a lot of national ads--and where we, our firm, ourselves, have run national ads, and advertised goods, not entirely for the price but on the basis of merit of owning

that product. Today, to a great degree, that has disappeared.

THE CHAIRMAN: The manufacturer still does some of that.

MR. FORST: Some, but not as much as he did. But he does some. The dealer does not do any. I should not say he does not do any, but he does a very limited amount as compared to what it used to be. There is some done, but I would say it is probably less than 25 per cent of the proportion of advertising of appliances.

THE CHAIRMAN: I suppose they concentrate on price in the advertising?

MR. FORST: Yes, that is right.

MR. CHAIRMAN: And that is the thing to which public attention is directed.

MR. FORST: They do not advertise on the desirability of owning a product. As you say, they leave that to the national advertiser, to the manufacturer.

THE CHAIRMAN: And they act on the assumption that most of the nationally advertised products are so well known that they do not have to tell the people how good they are.

MR. FORST: I think that is a false assumption, I am afraid. You have to keep selling them.

Then, another thing that was mentioned the other day was that while some stores are showing cut prices, they have various ways of increasing their profits by increasing interest charges over

what was normally charged before the price regulations were taken off.

THE CHAIRMAN: Mr. Forst, there is one thing we would like to go into a little further. It has been said several times that exorbitant financing charges probably made up to the dealer what he loses in price. Have you any idea how much the financing charges have been increased?

MR. FORST: I notice it was published in the newspapers the other day. I do not know whether it is going to be favourable to the matter of increasing business; because I imagine it might scare some people off, if they wanted to buy something and realized how much those charges have been increased. I think there has been a general increase of from two to four per cent.

THE CHAIRMAN: That would not take off anything like the benefit of a cut of $150 on an appliance, would it?

MR. FORST: Well, I do not think the cut has been quite that great.

THE CHAIRMAN: The advertisements have been that great.

MR. FORST: Yes; but those cuts in price have been due, not to the fact that price lists were removed but due to the fact that there has been overproduction in some lines and due to the fact that new lines were coming out, new models were coming out. In many of those cuts that you saw, that you noticed--many of them were done by agreement with

the manufacturer because there was a matter of moving the merchandise.

THE CHAIRMAN: But an increase in financing charges of two or three per cent on an item costing $500 would only be from $10 to $15.

MR. FORST: Yes, that is right, at a year or a year and a half or two years. But you would find in the final analysis on bigger appliances that that probably was about the relative reductions, too, or somewhat relative--or maybe a little more. But I think there is also a mistaken view that everything was sold at list prices before. I can assure you that they were not.

THE CHAIRMAN: We have had some evidence of that kind, too.

MR. FORST: I do not mind telling you that we were one of the ones who were not.

THE CHAIRMAN: We have yet to find anybody who insisted that he always did sell at list price.

MR. FORST: I think comparative savings were somewhat relative to the increase in rates--probably a little more, but not too much more.

I think also I mentioned the other day that the public does associate price with quality to some extent. I remember years ago when one washing machine sold for considerably more than another one; it might be better in quality but it certainly did not give any more service to the customer. Yet I think that washing machine had a particularly good sale for the simple reason that

the price was higher, rather than lower. Our company did not handle that particular washer at that time. But I know we were always bucking up against it; and one of the biggest reasons people had for wanting to buy that one was not because it was better value but because it was obviously better quality because it was a higher price.

I think people do associate quality with price; and, although I do not know if that is too much of an excuse for having high prices, I do feel that people lose faith in everything they buy when they do not know what the price is going to be next day. And I wonder if it does deter people from buying things, or that they might even buy something else that is less known, if the price was higher. Strangely enough, I think that is the fact.

THE CHAIRMAN: Would you think that the uncertainty that you speak of would have a greater effect in persuading people to put off purchasing or to refrain from purchasing than the lower price would have in the other direction, that of encouraging them to buy?

MR. FORST: It is pretty hard to say. I feel that the volume of business, and certainly the volume of profit would be greater--but the volume of business would be pretty relative today, if we left the list price on. I do not think the volume of business has been increased to any great extent, to any degree.

THE CHAIRMAN: Would you not think that a number of people have purchased goods because they had reason to think that the price was a good deal lower than it had been previously?

MR. FORST: There has been a tendency.

THE CHAIRMAN: And that those people would not have purchased if the price had remained up?

MR. FORST: I think that is a fact. But I think it is due to the fact that in most cases--and I am thinking of the bigger ticket items such as refrigerators, electric ranges, television sets and so on--that in those cases the cost prices were reduced, in most cases where that occurred, commensurate with the selling price. The margin of profit was somewhat similar to what it was previous to the removal of list prices. I do not think there is too much doubt that a temporary increase of sales has taken place, particularly in small table appliances, due to the fact that they have been sold at such a low price.

THE CHAIRMAN: Do you mean that on the big appliances that, generally speaking, the reductions in price--that is, in retail price--have been parallelled by reductions in prices that the manufacturers charge the dealers?

MR. FORST: To a great degree. Certainly advertised prices have.

THE CHAIRMAN: Why have the manufacturers reduced their prices to such an extent?

MR. FORST: I do not know the exact reason,

but I must assume that they have been overstocked. Manufacturers do not reduce prices for instance, on refrigerators, in March or April, or even in June. But they usually start reducing about July or August.

MR. FAVREAU: Before the next model comes out?

MR. FORST: Yes.

THE CHAIRMAN: Have you any means of knowing whether they are influenced at all by the fact that some retailers were slashing prices?

MR. FORST: They have never given that as a reason. It has always been based on quantity purchasing, which we have taken advantage of in our own particular firm.

THE CHAIRMAN: You have no specific information to indicate that?

MR. FORST: No; and, incidentally, this particular factor is not new. We have been in the appliances business since 1930--or perhaps a little later; 1932--and the same situation has arisen almost yearly ever since we started in business.

THE CHAIRMAN: That is, the manufacturers on certain occasions have cut their prices?

MR. FORST: Yes, and the price has been reduced usually to take care , in some ratio, with the cost price.

But I should add here that manufacturers' prices in some cases--and I am thinking more particularly of smaller items such as kettles and irons and so on--have not been reduced. And in some

instances--well, I see a price here of $8.25 and I enclosed one of $7.75, on a kettle--that is approximately the cost. And if anybody can sell goods at cost, and pay his light and his rent and his telephone bills--well, there is something going on.

But in those cases the manufacturers' prices have not dropped, and there the retailer has borne the entire brunt of the reduction, which has reached the point of no profit--or, at least, that is so with most of us. Some retailers may have a secret buying agency which has not reached us, but I do not think so.

THE CHAIRMAN: Your view is that that is the situation of prices being reduced to the point of no return, as Mr. Favreau suggests--that it applies mainly to the small appliances?

MR. FORST: Yes.

THE CHAIRMAN: And that in the large appliances field the reductions in retail prices have been parallelled by reductions from the manufacturers, and that the same situation does not exist in the two fields?

MR. FORST: That is right, not in the same degree. As I said before--and do not misunderstand me--I do not say there are no reductions in major items, and where there was not any reduction at the manufacturer's level. But that has occurred for years and years and years. And I do not think the manufacturers could control it. They do not

control it in the United States where they have a Fair Trade Practices Act.

Let me stress here that it is my contention, and I do not doubt that the point would be amply borne out by impartial investigation, that legitimate--and I stress the word "legitimate"--merchandising has been carried on at much the same level as heretofore, yielding approximately the same margin of profit. But that items which previously had a listed price have lately been offered at all kinds of absurd prices, and used in the main as bait or premium items with the object of luring customers into the store. Thus no new method of merchandising has been evolved and all that has been done is to offer, as stated before, items formerly having a list price at less than cost.

It is submitted that the lack of profit resulting from such merchandising must be made up elsewhere, and either added to the price of other goods or in some form of hidden charges.

If I may comment on this, I personally feel that a reputable manufacturer and his dealers are entitled to some protection against what might, without trifling with the truth, be termed unethical promotion. And I might add that, to my personal knowledge, many dealers formerly handling this type of merchandise have now ceased to offer it for sale, and have kept such under the counter.

In other words, if there is no profit in

it at all, then it is pretty logical that a lot of merchants will not promote the item any more. They will just keep it under the counter and, if a good customer asks for it--sure, they will give it to him. But they will not try to sell it. And, although I am not here to protect the manufacturer, it does affect the manufacturer which, in the long run, puts our economy in a rather bad situation. If people are not going to promote merchandise any more, it is not very helpful.

It is quite understandable that if a manufacturer found he could sell more of his merchandise on this give-away plan, he would be only human were he to do other than favour it since, after all, he is interested mainly in volume business. But I stress that the manufacturer knows, as we all do, that these give-away gimmicks will soon lose their attraction.

For instance, a large dealer like ourselves, there is nothing to prevent my putting on kettles tomorrow at $4.95. Why should I not? I am going to lose money anyway, if I sell them, so I might as well lose another hundred or two. So there you are; where is the bottom?

THE CHAIRMAN: The bottom is when you give them away for nothing.

MR. FORST: Yes. The legitimate outlets will be gone, his whole dealer set-up will be lost, and it might well take him years to build up anew--if, indeed, it were possible to rebuild when once

the confidence of the buying public and ethical dealer alike have been lost.

I understand the manufacturers are against this matter; and I think they are taking the right stand there--that the manufacturer does not like the idea of his product being sold at less than cost. Because I think he must feel that it is a short-lived proposition.

I sincerely believe that if more modern and streamlined selling is developed, progressive manufacturers and their dealers will be the first to adopt them; for, after all, the net profit is, in the final analysis the paramount consideration.

We are all interested in selling goods; and if we can sell them at a lower cost and get the margin of profit down, we are all going to strive for that, both the manufacturer and the dealer.

The margin of gross profit, prior to the restriction imposed by list pricing, was about the same as on other goods having similar selling prices. In any case, whether it is on appliances or on clothing or on furniture, the margin of profit in Canada was pretty much similar, and list prices were never any higher, in relation to list prices--were never any higher than the average markup on other goods. I would say they were probably a little lower in many cases. Therefore the list price was not a profiteering angle. It was just a matter of giving orderly merchandising, because the markup on other goods was comparable.

THE CHAIRMAN: Your belief is that list price markups were never fixed with the idea of ensuring sufficient returns so that nearly all dealers would be able to handle it, including those who were not too efficient?

MR. FORST: I do not think so. You could say that a lot of merchants are not too efficient. A lot of merchants go out of business. In fact, I guess most of them eventually go out either because of bankruptcy or because they could not make enough out of it. But the markup of profit, whether a large organization or a small store, is pretty much the same. The big store's advantage is that, usually, they can buy cheaper, and they get advantages that way. The small store on the other hand can operate a little cheaper, and so he balances it off.

But the markup on goods generally, whether list price merchandise or whether it was without list price, is usually somewhat similar, although in some cases list-price merchandise is lower. Let me give an example in the United States. The markup in the United States in furniture is considerably higher--almost double, as a matter of fact--what it is on appliances. In fact, many furniture stores in the United States would not even handle appliances, for that reason. They could not make enough markup. And in the United States the furniture stores do not touch appliances. They do it only as a convenience--because their markup on appliances was

much lower--because of the list price, not because of a lack of it. It was because of the list price. But on furniture, where they had an open field, and where they could place their markup wherever they pleased, or whatever the traffic would bear, they had a much better markup. It is true, it might have cost more to sell furniture, for various reasons--it might have cost more. I would not like to argue that point. But the fact remains that the list price was not higher. In fact, in that country it was considerably lower. The margin allowed on the list price is considerably lower than the margin on other items which the stores were carrying.

THE CHAIRMAN: From what I have seen--not in the appliances field, but in some other fields--supply-house advertising which would show the list price of the retail sale, and the price to the dealer, puts a great deal of emphasis on "your margin, so much".

MR. FORST: Yes.

THE CHAIRMAN: And the impression that I got from reading such advertising was that the dealer was being shown how big the profit would be if he handled those goods, and handled them at the list price. Now, I have seen that in some lines.

MR. FORST: Yes.

THE CHAIRMAN: I have not seen it in connection with the appliances field. But I was wondering if you had run across an experience of that kind, yourself.

MR. FORST: We usually get some kind of catalogue from the east showing the profit, or showing the price that they ask, which is about the same as we are selling for. So we are not interested.

THE CHAIRMAN: That is in the appliances field?

MR. FORST: Yes. I think there is in some things. I often wonder, though, if a dealer finally realizes that profit.

MR. WHITELEY: Have you any comment on the view expressed before this Commission that if resale price maintenance were restored a manufacturer would approach the establishment of list prices much more realistically and by a narrower margin than he did in the past.

MR. FORST: It seems to me that in most cases they were fairly reasonable in the past. As I say, list prices before showed a margin of profit somewhat comparable. I am speaking of appliances, because I think that is our subject for discussion. They showed a margin of profit somewhat comparable to what they were on other goods of a similar nature.

MR. WHITELEY: But the view expressed by certain other persons who appeared is that the experience since the removal of resale price maintenance has indicated that that margin could have been smaller.

MR. FORST: Could have been smaller than it was?

MR. WHITELEY: Yes.

MR. FORST: Well, it does not seem to be the experience; because if it was, then why would not a dealer sell other goods without list prices at a lower margin of profit--which they do not do. And I am speaking generally--I do not say that some dealers do not and that some do.

THE CHAIRMAN: We had one association of dealers who, at a meeting, passed a number of resolutions, the first of which was a recommendation to the manufacturers to get their markups on a more realistic basis, because they felt the very large margins that they were allowing were an encouragement to price cutters.

MR. FORST: That is right. I will say that before the war some list prices got out of hand, in relation to cost prices. But our company, for one, never, never, never got those list prices. In fact, we never advertised those list prices.

THE CHAIRMAN: May I ask, what is the value of resale price maintenance, then, if you say you never got it?

MR. FORST: I am speaking of one particular item. In that particular case we never got it. As a matter of fact I might even say that when the manufacturer insisted that we get it, in our particular case we returned the merchandise. We said we were not going to perjure ourselves, even for them, in attempting to get it. Because we felt, as you said just now, that the list price was unrealistic.

But here was a situation that occurred in

7 those days, that there was in connection with this particular line of merchandise, the matter of trade-ins. The market was saturated, and almost every deal brought in a trade-in. So we automatically allowed an additional 10 per cent for the trade-in above its true value, right away, as a sort of automatic premium, you might say, to the customer.

The only problem we were faced with was with the customer who did come in and did not have a trade-in. What did you do then? You must treat him unfairly, or give him a 10 per cent reduction. In our case we always gave a 10 per cent reduction.
1 I do not know whether other firms operated on that basis or not. Maybe they got the full profit, I do not know. But I will agree that if list prices are unrealistic, they defeat their own purpose.

THE CHAIRMAN: Yes, I think everybody agrees with that.

MR. FORST: But since the war I must say that I think they have been fairly normal.

THE CHAIRMAN: And from what you say, I gather it is your opinion that in any field where trade-ins are common, list prices are not and cannot be strictly enforced?

MR. FORST: No, they cannot be enforced. Because what is a trade-in worth? Every dealer will have a different conception of its value, of course.

THE CHAIRMAN: Yes; and a dealer may not care very much whether the value is really there or not.

MR. FORST: That is right. We would be

58 absolutely frank with our customer. We would tell him, "Your trade-in has no value at all to us, frankly; but we will give you a 10 per cent courtesy trade-in." In other words, if an article sold for $200, we would say, "Here is $20. We do not care whether we even pick up your trade-in. We will get it out of your way, if you want us to; but we would rather not, because it has no value to us."

We used to allow it to them, anyway. I do not think any merchant is a good Samaritan. It was due to competitive conditions, partly. But on the other hand, I think every merchant wants to get business, and one deal is not the last deal. And I think we are all anxious to give our customers a good bargain. The better value we give them, commensurate with final--even if it is a narrow margin of profit--and, incidentally, I saw Safeway's net profit, and I am rather envious, I must say--commensurate with net profit, in the final analysis, if you are going to stay in business, is a good deal. And I do not think that legitimate dealers are going to try to stick their customers.

Even if you could get that extra $20 or $25, you would not get it anyway. You would say to your customer, "I am giving you something because I can afford to give it to you." And, naturally, that customer is going to come back, because he will feel that you are treating him fairly. And I think other merchants do likewise. They would have to, if they intend to stay in business.

59 Does this not prove that the list prices were fair and that if selling costs could be pared everyone in the industry would jump at the chance, since uniform lower price means greater volume of sales and more profit.

I think we are all striving to get prices down. The lower we get the prices, the more goods we will sell. The first thing we do, when we get hold of the manufacturers, is to try to get them to put the list price down--not up. Because if the list price is too high, nobody will buy anything.

52 All this was indicated here the other day, some dealers say that they can sell at much lower gross margins than under previously accepted practice. It would be safe to say that such dealers as make this claim are comparatively new to the business, and many of them are not giving full service and do not back up the products they sell.

Another said that one dealer in Toronto advertised, "Do not come to my store, at all. Come down to the freight yard." The customer was supposed to come right to the freight yard and take it away, in the crate. Maybe he can sell cheaper that way, I do not know.

THE CHAIRMAN: It should be cheaper. You would not have any store, if you operated that way.

MR. FORST: Yes--the way he is suggesting he is operating, anyway.

THE CHAIRMAN: If he could operate that way, he would not need floor space.

MR. FORST: No. Down in the United States the department stores found that they were acting as show-rooms for these so-called discount houses. The point is that the department stores in some cases have thrown out the department. So now the discount houses have it all to themselves. After all, they were doing all the selling--and the discount houses are now getting the benefit, if any.

THE CHAIRMAN: I suppose if the discount house got all the business, they would still find it profitable.

MR. FORST: Yes, that is true.

THE CHAIRMAN: If everybody else got out of the business.

MR. FORST: Yes. Such merchants are cashing in on a created demand and when they, like others, have to create a desire for ownership among the buying public, then costs will go up in sympathy.

In other words, if they have to do selling and give service and proper delivery and, incidentally, pay reasonable salaries to their staff--that is another important point--they might have to charge more, too. I point out that the law of supply and demand always controls price and list prices can be readily adjusted when demand falls off. I might say they always were and always will be.

I am sure the Commission is sincere in its efforts to bring down the cost of living. There was a belief that the cost of living would be reduced by the abolition of list prices. I feel that in the

51 main that object has not been achieved. Prices may seem lower on one or two particular items, but you may find that they have been either increased on other items or other costs have been increased.

I do wish to make one point, if I may, and that is that in the interests of the public and the orderly conduct of Canadian commerce, the Government should permit manufacturers and their representatives to set the sales price of such articles as they manufacture.

I feel that if a manufacturer makes a certain article--for instance, if he makes that portfolio, there, and he says, "I think that portfolio is worth $5 to the consumer, when you consider the costs of distribution between myself and the consumer." That should be his privilege. Somebody else might make a similar product, or might even make a better one, and he might sell it for less. He will soon have to adjust himself or he will be out of business.

Before the war, and even since, there were many goods where there was never any list price. It seems to me there was a similarity of cost price. And I always felt that there was some sort of combine deal there.

For instance, even now the cost prices of many items, certainly at the beginning of the year, are similar. A 21-inch set is the same, whether it is made by one company or another company. Maybe the costs of the second company are different, or

52 maybe their costs are all the same, or maybe they all have the same price. And of course I am speaking about comparable products, not a cheaper product where there would be a cut in the quality. But, quality for quality there is a similarity in things.
53 There is greater disparagement in the retail level because we are all fighting one another. But at the manufacturer's level there is a similarity. If anything can be done, something may be done there to watch that situation. Certainly one manufacturer you would think could manufacture for less than another. But it is the same thing.

MR. WHITELEY: Or one retailer.

MR. FORST: He comes down lower and the other fellow meets him.

MR. WHITELEY: If you suggest that one manufacturer might have different costs from another, then why would not the same thing be true about each retailer?

MR. FORST: Possibly so, but what I am pointing out is why is there always such a similarity at the manufacturers' level, whether it is the list price or not?

THE CHAIRMAN: Their explanation usually is that unless it is fairly close to the other fellow they do not get much business. That is the situation, whether they make as much profit as the other fellow does, or not.

MR. FORST: In other words, the lowest price is always the price--or the highest--I do

3 not know. But there is a similarity. The suggestion I make here is that if the Government is really interested in the economical operation of business, it might very well consider the distribution set-up as a whole, for it is my considered opinion that there are too many middlemen in our present method of distribution, and I would point out that too many of these middlemen do little of any consequence in the movement of goods from the manufacturer to the consumer.

MR. WHITELEY: What do you mean by the middleman?

MR. FORST: I think of some wholesalers-- and I am thinking of commission men, and so on. For instance, manufacturers set up wholesalers, and then the wholesaler sets up another wholesaler. And the manufacturer has salesmen who are selling the article to the wholesaler, and the wholesaler has another commission to pay to sell to the other wholesaler. And the other wholesaler finally gets to the dealer. And somewhere in that product there is about 20 per cent, before it gets to the consumer.

THE CHAIRMAN: 20 per cent more than it should be?

MR. FORST: Yes. I think it is higher than it should be. For example, imported goods sometimes come from the United States. The distributor in Canada, the national distributor, will import goods from the United States. He will have to get a profit. He is not there just to distribute

54 167 those goods for the fun of it. He, in addition, appoints a wholesaler in a local area, so he gets a profit. So before the article gets to the dealer there are two profits, above the manufacturer's profit in the United States--plus the duty, and United States taxes, and all other things. So that the product is pretty highly priced before it gets to the consumer. Incidentally, our firm found a way of beating that, when we imported direct.

THE CHAIRMAN: I was wondering if business people did not find some way of avoiding those conditions.

MR. FORST: But, on the other hand, there was a lot of merchandise sold that way.

It is a matter of economical distribution. We could handle them much more economically if we could even go back east and anticipate our requirements for a year, or perhaps for a period of six months, and bring in several carloads. We would save on the salesman's commission, and save on the wholesaler's profit, and so on.

THE CHAIRMAN: And perhaps get a lower price.

MR. FORST: Yes, perhaps get a lower price; so that everybody would benefit. I do not want to make the point that I wish to eliminate a very large group of probably very worthwhile people in our economy; but I think that is one of the costs in our economy that could be reduced.

54 THE CHAIRMAN: The general theory of

competition is that if you cannot prove their value somebody will find a way of beating their particular methods and then they will either change or go out of business.

MR. FORST: There, again, you are coming back to list prices. If the manufacturer has got an accepted line he can pretty well do what he likes between the retailer and himself, because if the line is accepted he has a pretty ready market for it.

And, incidentally, speaking of list prices of other items, I am thinking of some lines that have established lists, such as dry goods items, hosiery, shirts, and so on. The list is established and the quality is based upon the price. In other words, people expect to get that certain quality for that certain price. There is nothing to prevent a merchant to go to that manufacturer--particularly if he is a large merchant--and get possibly the same quality, without the label. And, although he might not save much on the cost, he can pretty well do as he pleases with it, if he wishes to sell at a lower margin of profit. So there is nothing to prevent a merchant, if he really is interested in the interests of the consumers, to give his customers pretty good products at lower prices. And he still does not affect the list prices of the other manufacturers; if the customer wants a name he can buy for the name; if he does not want that, he can buy some comparable merchandise.

THE CHAIRMAN: Perhaps identical.

MR

MR. FORST: Yes, perhaps identical, and at the same price.

I think that covers all I have to say. I do feel that it is all very well to have a free economy--I am all for it. Probably I would not be here if I was not. But, just like any other laws, we have to have certain laws controlling situations. It is all very well for someone who drives down the street at 40 or 50 miles an hour; but someone is going to stop him. It could be a hazard. And where list prices have in some cases created a hazard in our economy, I think we should consider that very seriously.

THE CHAIRMAN: You mean that you believe in a free economy, and I suppose you would go so far as to say that restriction on the operation of a free economy requires to be justified.

MR. FORST: That is right.

THE CHAIRMAN: That is, there must be a situation which is bad and which can be corrected by some restriction?

MR. FORST: That is right.

THE CHAIRMAN: And that unless that is the situation, restrictions should not be put on.

MR. FORST: Yes.

THE CHAIRMAN: It is a question of striking a balance between what the effect of the restriction would be, and not having that restriction. That is our problem right now.

MR. FORST: Yes. It is a matter of trying to find out where the balance would be. I think that covers my views on the subject.

MR. GERIN-LAJOIE: There are one or two points concerning which I should like to have clarification. At page 4 of your statement, Mr. Forst, you refer to the too great number of what you call middlemen under our present method of distribution. Do you mean too many in the vertical line, that is one jobber selling to another, or---

MR. FORST: Too many vertical, too many between the manufacturer's cost of production and the final consumer price. We are one of the middlemen, ourselves, in a sense. Maybe we should be eliminated, I don't know--maybe we are being eliminated. It seems to me there are too many in it. There are too many wholesalers selling to wholesalers, and then the commission men in between, in most cases.

MR. GERIN-LAJOIE: And would you go so far as to say that in cases where there is only one jobber or wholesaler between the manufacturer and the retailer, that that might be too much, even?

MR. FORST: Yes, I think so. Where a large merchant could buy direct from the factory, he does not need the services of a wholesaler. He has his own service set-up. He could pretty well solve all his own problems. The other services are not really required.

MR. GERIN-LAJOIE: Now, is it your opinion

18 that with resale price maintenance there might be much more pressure from some sources to get rid of some people in intermediary positions like this, and more pressure also on the manufacturers to bring down their prices?

MR. FORST: I do not think that the list price has much to do with it one way or another, really. I do not think that the list price of merchandise has much to do with the tendency either to remove the wholesaler or to leave him there. It has not had that effect, anyway, yet.

MR. GERIN-LAJOIE: Would you not conceive it possible that the absence of list prices bringing down retail prices by competition would put some pressure upon manufacturers and wholesalers to bring down their prices to the retailer?

MR. FORST: It is conceivable, but it has not happened, I do not think, in practice.

MR. GERIN-LAJOIE: That is all I wish to ask, Mr. Chairman.

MR. WHITELEY: I take it it is your view that you would like to see list prices, but not to have them too rigidly maintained?

MR. FORST: I feel that the manufacturer--and I am in a rather funny position, perhaps. I am a retailer, and yet I am looking at it rather broader than just a retailer. I feel that the manufacturer should have some control--not in the interests of the manufacturer, but in the

interests of the economy as a whole--over the product he manufactures. I am looking at it from his standpoint rather than from my own standpoint. It might not even benefit me as a retailer. Indeed, I am not sure that it would. But I feel that the manufacturer should have some control over his product. I feel that when he manufactures a product he should have some control over what eventually happens to it. He is not trying to control somebody else's product. He is only interested in his own, whether it is a refrigerator or something else.

THE CHAIRMAN: After you have bought it from the manufacturer, whose product is it then?

MR. FORST: Prewar, before the abolition of list prices took place, we made contracts with the manufacturer, and we undertook to adhere to certain regulations that he set out. I do not say that they were good regulations, necessarily. But that was his deal; that was his proposition.

THE CHAIRMAN: That is a matter of contract. But when you have bought a manufacturer's goods, and you have paid him---

MR. FORST: I still think that, in a sense, I am his representative. And if I am not a good representative, then I think he should be able to do something about it--and he does, sometimes, too, I understand.

THE CHAIRMAN: As a retailer, do you not like to be free to do what you like with your own goods? I am trying to get your position as a

10 170 retailer. You have been telling us about the manufacturer's position.

MR. FORST: Yes, I think so--as long as I did it in an orderly manner. But, for instance, I might have a very good relationship with one manufacturer, and he does something I might dislike very much. In about a week's time I might say, "I am going to fix you. I have about $20,000 of your goods, and I can upset your whole applecart." I can ruin his whole dealer set-up in this city. All I have to do is sell all his goods at cost; and that would not worry me too much. I will try to sell a lot of other goods through it.

Now, I can do that, or my competitor can do it. His fate is really in my hands, is it not? I can do it, anyway, for that matter; but at least he should have some control.

THE CHAIRMAN: Even if he has control, you can do it.

MR. FORST: Yes. It is pretty hard to stop me. Nevertheless, I think at least if you have an agreement with him he could say, "I believe I have an agreement with you. At least you are going to play the game." But if he has no agreement I can say, "What the heck, you have no agreement with me; I can do as I please." And it is being done every day.

Does that answer your question? I think somewhere along the line there should be some control, not only for the manufacturer's sake, but for

the manufacturer's dealer set-up. Because he may have 20 or 30 other dealers, possibly--maybe too many of them.

MR. WHITELEY: You suggest that in the case of your own firm you found it possible, at times, to make quantity purchases?

MR. FORST: Yes.

MR. WHITELEY: And get lower prices than would normally be available to you?

MR. FORST: Yes.

MR. WHITELEY: How, under a system of list prices, could you pass those savings on to the consumer?

MR. FORST: Only by agreement with the manufacturer to reduce the price.

MR. WHITELEY: But he would not establish a list price for you alone?

MR. FORST: He did.

THE CHAIRMAN: For one dealer?

MR. FORST: Well, he would, sometimes.

MR. FAVREAU: Quantity?

MR. FORST: Yes.

THE CHAIRMAN: Rather an odd list price.

MR. FORST: Before the war, and even before the abolition of list prices, the manufacturer would say, "All right, do you want to buy a quantity of these items? If you do, you can buy them and sell them at any price you wish."

THE CHAIRMAN: But that is not a list price. If he says that you can sell them at any price you like, that is not a list price.

MR. FORST: To some extent they did set a new list price, which sometimes was general, and not just for one dealer.

THE CHAIRMAN: If it was not general, you would have some difficulty with other dealers.

MR. FORST: They have done it with one dealer sometimes. They risk quite a bit, because they might find themselves in wrong with their other dealers. But sometimes they do it.

MR. WHITELEY: That more or less suggests that these advantages that occurred in these situations are made known in a very limited way, and that so long as you maintain a system of general list prices, only a particular section of the public could get any benefit from these advantageous situations.

MR. FORST: The dealer is still getting the benefit, regardless of whether the list price has been taken off or reduced or not. There is the same situation now as before.

MR. WHITELEY: Except that any dealer now is free to give the public the benefit of any advantageous purchase that he makes.

MR. FORST: Yes, and he was before, pretty well, too.

MR. WHITELEY: Only by departing from the list price.

MR. FORST: Yes, that is right--and he always did. I can speak for myself; I always did.

MR. FAVREAU: Then where is the protection

to the manufacturer?

MR. FORST: That is the manufacturer's prerogative, let us put it that way--to which I think he should be entitled, not for his benefit, but for the benefit of the dealer. That manufacturer is a manufacturer who does value his reputation.

THE CHAIRMAN: You mean he could do something about it formerly?

MR. FORST: Yes, but now he cannot.

THE CHAIRMAN: But he did not.

MR. FORST: That is right--some did and some did not.

THE CHAIRMAN: If you, as you say, and others quite freely departed from the list price, and nothing happened to you, it would look as if---

MR. FORST: We had an agreement with the manufacturer in every instance--or most every instance. We did not do it so flagrantly in a sense that we broke our relationship with the manufacturer. But if a manufacturer said to us that he had a quantity of merchandise and we bought this at less than the regular cost price, we sold it relatively for less than the regular price.

MR. WHITELEY: Was not the situation this, then, largely, that the public might or might not get the benefit of the advantageous purchase by the retailer?

MR. FORST: That is possible.

MR. WHITELEY: It might happen?

MR. FORST: Depending on the retailer's

point of view.

MR. WHITELEY: Whereas now, if competition is effective, the public can be expected to get the benefit.

MR. FORST: Not necessarily, because we can still do the same thing, if we so desire. Unfortunately, or otherwise, we do not. If, for instance, for the sake of argument, a large merchant in Vancouver bought up all the surplus stock of a certain manufacturer, he could control the price the same now as he did before. He could easily get the benefit of it.

MR. WHITELEY: Except that he may expect that some of his competitors will get the surplus stock of some other manufacturer.

MR. FORST: Yes.

MR. WHITELEY: If he tries to hold up the price on his lot he is likely to find them on his hands at the end of the season.

MR. FORST: It happened before. I do not think the list price has any effect on that situation. It does not in the United States. They have a Fair Trade Practices Act, and there is plenty of cut pricing going on there. But I think the manufacturer does attempt to keep control over his goods. I think it should be the prerogative of the manufacturer and his dealer set-up to decide what they want to do. If the manufacturer wants to deviate from the list price--and let me say that many manufacturers before the war, and even

now, never did attempt to have a list price. They say, "It costs you so much money. Whatever you do with it is up to you." They say, "If you want to sell it for nothing, or $10 profit, it is up to you. I think if the manufacturer says, "I want to sell at this margin. I think that is a fair price that shows a reasonable margin of profit, while the item is in season"--then I think the manufacturer has a right to do it.

THE CHAIRMAN: In your opinion the manufacturer is better able to decide that than the retailer is?

MR. FORST: I do not think the manufacturer usually decides it. As I said in my brief, consumer demand decides the price, in the final analysis. If a consumer does not buy it, then the price has to come down to where the consumer will buy it, whether it is the list price or is not the list price. The list price does not mean a thing if the consumer does not buy it.

THE CHAIRMAN: That is true, but it is also indicated that salesmanship might have been partly responsible.

MR. FORST: Yes, that is true. One thing that could very well develop on these things, and that is that, as I said earlier, inferior products could be sold at higher prices than well-known products, or at the same prices. Because the manufacturer cannot get a decent dealer set-up when there is no margin of profit. And that could very well happen,

76 and it has happened in some degree, already. That is where some large organizations have set up stencil lines of goods in which they show a normal line of profit, or more--I do not know what their profit is, because they buy them and put their own names on them. And they would naturally try to sell those goods against other nationally known goods, which may be better value at normal prices. But the margin of profit has been eliminated because of competitive conditions. So, in the long run, the consumer does not get the benefit of the removal of list prices. They are just getting probably an inferior product.

MR. WHITELEY: Is it not so that the large-scale advertisements in Toronto and so on to which you have referred are all of nationally advertised goods?

MR. FORST: No. If you will look at the last three or four months you will find that they take things without national names.

MR. WHITELEY: I would be glad if you would dig up some of those, as examples.

MR. FORST: I think I have one here.

THE CHAIRMAN: Most of them that have been shown to us have been nationally advertised things.

MR. FORST: Here is an electric range. This same picture, incidentally, has been in four or five different store advertisements--the very same picture, and the very same price. If it is

such a terrific bit of value, I submit that it would be sold out in one day. But it goes on from week to week to week to week. It has no name on it.

MR. WHITELEY: That is the opposite of your own argument, is it not? If they do not sell it, then the public is not buying it.

MR. FORST: In this particular case they are using this just as an attraction to bring people into the store. But I have noticed a tendency in the Toronto area in the last two or three months not to advertise nationally known goods to any degree--although they have some in there--but to advertise unknown goods. And this is one of those. It is at such a ridiculously low price that the people will wonder what is going on in there, and they will go in to find out. I do not say that the dealer does not sell nationally known goods lower than list--which I am sure he does. And so do we. But he is using this thing here, which he can get away down below--and that is probably away down below a similar thing, a nationally advertised item, a known item--away below in price, and possibly even below his cost. And he is using that to get people into his store. And, incidentally, that is happening locally, too.

THE CHAIRMAN: Is that paper you have in your hand submitted as an exhibit?

MR. FORST: Yes, I have submitted it as an exhibit.

MR. GERIN-LAJOIE: It was with the brief.

18 178 MR. FORST: You will notice a kettle at $7.25. We have not bought any at that price. I do not know whether Mr. Wosk has, or not; I do not know.

THE CHAIRMAN: That should be marked as an exhibit. We do not have a copy of the brief.

MR. FORST: I have it in my brief; I have mentioned it.

THE CHAIRMAN: We had better mark it so that it can be identified.

MR. FORST: There is a tendency in the Toronto area, lately, to advertise items, similar items, every day. For instance, one refrigerator is being advertised at $249.50. It is a Canadian-made refrigerator--I happen to know its source--and they are advertising it every day, day after day. And I guess they are selling it--I don't know what they are doing with it.

THE CHAIRMAN: They must be selling something.

MR. FORST: Yes, or they would not spend four or five thousand dollars each month in advertising.

MR. GERIN-LAVOIE: So Mr. Forst is filing this material as an exhibit.

---<u>EXHIBIT VAN-2</u>: Advertisement from the Toronto Daily Star of June 22, 1954.

MR. FORST: This thing really has no relationship to list prices. He could still do that, list price or no list price.

THE CHAIRMAN: It is interesting to us because nearly all the representations made to us with regard to appliances have been to the effect that those who have been cutting prices have used nationally known and advertised lines as a means of getting people into their stores. It is the first time we have had---

MR. FORST: There is a tendency in there to do that.

THE CHAIRMAN: It is the first time we have had it suggested that they have used unknown lines.

MR. WHITELEY: Do you keep a close watch on the advertisements from other cities?

MR. FORST: Just Toronto. That is the hot-bed of everything that happens in Canada.

MR. GERIN-LAJOIE: But is it not true that in this case you have pointed to there is only one article which is not a nationally advertised one?

MR. FORST: Yes.

MR. GERIN-LAJOIE: And most of the others are G.E. and other nationally known brands?

MR. FORST: Yes. But there are other advertisements--and I would be glad to let you have them, because I have a whole batch of them in the store--where three or four items are advertised in the advertisement without any name. This happens to be just one of them.

MR. GERIN-LAJOIE: I would like to have something more.

MR. FORST: I just picked it out for the electric kettle at $7.25.

MR. GERIN-LAJOIE: It would be useful to have as clear as possible from you one point. Did I understand that you meant that under resale price maintenance it was possible for a retailer to make an arrangement with a manufacturer to sell under the ordinary list price?

MR. FORST: It was, definitely.

MR. GERIN-LAJOIE: Would you go so far as to say that when, for instance, a markup would be 30 per cent on a G.E. product, we will say, and that a particular retailer found that he could do a profitable business on a 25 per cent markup, the manufacturer would make an arrangement with him to allow him to sell all his merchandise with a 25 per cent markup?

MR. FORST: Not necessarily.

MR. GERIN-LAJOIE: So in that particular case the retailer could not pass along to the consumer the benefit of his lower overhead?

MR. FORST: No, he could not.

THE CHAIRMAN: Except by trade-ins.

MR. FORST: Except by trade-ins which, incidentally, in our business today, is about half of our total volume of business.

THE CHAIRMAN: Well---

MR. FORST: Except in, I would say, TV.

THE CHAIRMAN: If trade-ins are half the volume of business, it would be fairly useful---

MR. FORST: Usually, in the real sense, in the big ticket items, there never has been a list price. Because, where trade-ins are involved--well, there is not even in motorcars, if it comes down to that. You could offer your car in Vancouver today and get five or six different trade-ins.

MR. GERIN-LAJOIE: But on this point, I understand that any retailer cannot advertise, strictly, a lower price than the list price.

MR. FORST: Previously, no--not unless the manufacturer agreed to it by changing his list price, either for that particular dealer--which he might have done, but not likely--or generally across the board.

There is one point I think we should mention, that there are still advertised list prices. I see prices advertised in magazines, nationally advertised prices. Would it not be most confusing to see a national advertisement of a nationally advertised article at a price of $250, and in the same newspaper a price of $199.50 advertised--which has happened, incidentally. Where do we go from there?

MR. FAVREAU: It has been suggested to us that a solution might be the prohibition against advertising national brands at any price lower than the list price, but at the same time leaving it to the retailer to sell at whatever price he would like to his particular client, so long as he does not advertise.

MR. FORST: That is what happened before, before the list prices were on, anyway, so it did not matter--unless the manufacturer, in some cases, caught you.

THE CHAIRMAN: I think that completes the matter, Mr. Forst, unless you wish to add something further.

MR. FORST: No, I think I have discussed it enough.

THE CHAIRMAN: Then, thank you very much for appearing today.

---Recess.

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---Upon resuming--

REPRESENTATIONS:

Wosk's Limited:

Mr. Ben Wosk

Mr. Max Grossman

--o--

THE CHAIRMAN: I believe now we are to have representations from and questions directed to Mr. Wosk, is that correct?

MR. WOSK: Yes.

THE CHAIRMAN: Are you presenting a brief?

MR. WOSK: No.

THE CHAIRMAN: You are just answering questions?

MR. WOSK: Yes, that is right--just answering questions.

THE CHAIRMAN: Then, Mr. Gerin-Lajoie may proceed with the examination. But, first of all, we want to have your full name, Mr. Wosk, and the names of any persons who are with you.

MR. WOSK: My name is Ben Wosk.

THE CHAIRMAN: What is your official position?

MR. WOSK: President of Wosk's Limited.

THE CHAIRMAN: And who is with you?

MR. GROSSMAN: I am not appearing, Mr. Chairman, actually; I am not appearing officially, at all.

THE CHAIRMAN: You are an observer, as it were?

MR. GROSSMAN: Yes, an observer--interesting,

in a way, is it not?

MR. GERIN-LAJOIE: Mr. Wosk, your company is apparently operating a retail store in the city of Vancouver?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: Only one?

MR. WOSK: Four stores.

MR. WHITELEY: One building?

MR. WOSK: Four different locations.

MR. WHITELEY: I noticed last night a new location called Wosk's; is that the case?

MR. WOSK: We are going to build one.

MR. WHITELEY: I thought I saw the foundation.

MR. WOSK: Yes, that will be the fifth or sixth.

THE CHAIRMAN: All in the city of Vancouver?

MR. WOSK: The new one will be in Burnaby.

MR. GERIN-LAJOIE: Would you explain to the Commission in what field you do retail business?

MR. WOSK: The main items we sell are white goods--refrigerators, stoves, washing machines and, now, TV, radio, furniture and small appliances.

MR. GERIN-LAJOIE: Is it exclusively in the appliances field, or do you sell furniture, too?

MR. WOSK: We sell furniture in all our stores, too.

MR. GERIN-LAJOIE: And some other articles?

MR. WOSK: Anything that goes with furniture--no draperies or carpets, though.

MR. GERIN-LAJOIE: For what proportion of

your business would the appliances field account?

MR. WOSK: 80 per cent of our business is appliances--appliances, radio, TV, including both small and large.

MR. GERIN-LAJOIE: Small and large?

MR. WOSK: Yes, radios and television, too.

MR. GERIN-LAJOIE: And what would be the proportion of your appliances business, in the broad sense, which would be in the small or traffic appliances?

MR. WOSK: Less than five per cent.

MR. GERIN-LAJOIE: And the other 95 per cent would be what?

MR. WOSK: No, close to 75, because 20 per cent of that is furniture.

MR. GERIN-LAJOIE: Now, for how long has your company been in the field of business, in that field of business?

MR. WOSK: Since 1932.

MR. GERIN-LAJOIE: Since 1932?

MR. WOSK: May 15, 1932.

MR. GERIN-LAJOIE: Always in the city of Vancouver?

MR. WOSK: That is right.

MR. GERIN-LAJOIE: And would you be able to tell us how your business has progressed, and first of all the volume of your business? I understand that you might not like to give publicly gross figures of your volume of business. But would you agree to give those figures in a letter to the Commission?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: After the hearing is over?

MR. WOSK: Yes, I shall do that.

MR. GERIN-LAJOIE: In percentages, would you be able to mention how much your volume of business has increased since 1945?

MR. WOSK: Since 1945?

MR. GERIN-LAJOIE: Or approximately--after the war?

MR. WOSK: Approximately 10 times as much.

THE CHAIRMAN: Since 1945?

MR. WOSK: Yes.

THE CHAIRMAN: Is that your volume in dollars?

MR. WOSK: Yes, in dollars.

MR. GERIN-LAJOIE: Gross volume?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: Now, since December of 1951, or approximately, how much has it increased?

MR. WOSK: That means for 1952 and 1953?

MR. GERIN-LAJOIE: Yes.

MR. WOSK: There is no increase; there was a decrease from 1952 to 1953. 1952 was our biggest year, and 1953 dropped about eight per cent.

MR. WHITELEY: Did you have the same number of stores in each year?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: Was 1952 a higher

volume year than 1952?

MR. WOSK: No--yes, 1952 was higher than 1951.

MR. GERIN-LAJOIE: Much higher?

MR. WOSK: There was 40 per cent increase between 1951 and 1952.

MR. GERIN-LAJOIE: And 1953 showed a decrease?

MR. WOSK: Eight per cent.

MR. GERIN-LAJOIE: And that takes into consideration the calendar year?

MR. WOSK: That is right.

THE CHAIRMAN: Would that mean that 1953 was your biggest year, except for 1952?

MR. WOSK: Yes, that is right; 1952 was the biggest.

MR. GERIN-LAJOIE: Would you give the Commission your gross markup on over-all sales in your business?

MR. WOSK: In 1951 our gross markup, gross profit, was 28 per cent.

MR. FAVREAU: Is that the profit margin---

MR. WOSK: On everything.

MR. FAVREAU: Is that the margin on the selling price?

MR. GERIN-LAJOIE: Or on your cost?

MR. WOSK: On selling price.

51 MR. FAVREAU: 28 per cent?

MR. WOSK: Yes; then, 1952 it was 24 per cent, and 1953 it was 26 per cent.

MR. GERIN-LAJOIE: Would you be able to mention what was the manufacturer's proposed or suggested markup?

MR. WOSK: Anything between 25 to 40 per cent off list.

MR. GERIN-LAJOIE: And would you have an average to give us so that we might compare it with the 28 per cent or 26 per cent you mentioned?

MR. WOSK: I imagine between 25 and 40--about 33 per cent.

MR. GERIN-LAJOIE: It depends whether you have large sales in the 40 per cent figure, or---

MR. WOSK: Yes, I am sorry--in the larger sales there is a bigger percentage from list.

MR. FAVREAU: So that 33 per cent would be a weighted average?

MR. WOSK: Yes, that is right.

MR. GERIN-LAJOIE: And between 1945 and 1951 was your markup much different from 1951, the 1951 figure you mentioned?

MR. WOSK: No, it was about the same, within one or two per cent every year, from 1945, on.

MR. GERIN-LAJOIE: What figure did you mention for 1951?

MR. WOSK: 28 per cent.

MR. FAVREAU: It was 28, 24 and 26.

MR. WOSK: That is right.

MR. GERIN-LAJOIE: And do you say that before 1951 it was approximately 28 per cent?

MR. WOSK: About an average of 25 per cent.

This averages out, 24, 26 and 28--taking into consideration the dollar volume it would be about 25 per cent, because your 28 per cent was on smaller sales.

MR. GERIN-LAJOIE: So that does this mean that with the change of legislation in December of 1951 your gross markup or gross profit did not change?

MR. WOSK: It did not change, no.

MR. GERIN-LAJOIE: Now, would you explain the expansion of your business after the war, first in connection with the number of employees you have had at your service. Let us say since 1945.

MR. WOSK: First of all, since 1945, the more sales you have the more employees you need. We keep our own service department for everything we sell. For instance, we sell TV, and we have TV technicians. We sell refrigerators, and we have refrigerator service, a refrigerator service department. For stoves we have a stove service department. And every time you add on another line you add on more men. Of course, with increased sales you have increased salesmen and office workers, and so on.

MR. GERIN-LAJOIE: You mentioned that your gross volume of business has increased by ten times since 1945?

MR. WOSK: That is right.

MR. GERIN-LAJOIE: Would you say that your overhead in employees and rent and so on has

increased in the same proportion, or not?

MR. WOSK: Oh yes; and there is quite a difference in gross profit, too. It has increased in the same proportion.

MR. GERIN-LAJOIE: So you would not say that your overhead proportionately to your volume of business has decreased?

MR. WOSK: No, on a percentage basis, no.

MR. GERIN-LAJOIE: Has your way of doing business changed in any way since the change of legislation in 1951, particularly in the matter of credit, and regarding advertisements, and so on?

MR. WOSK: No.

MR. GERIN-LAJOIE: Let us take one of them at a time. First of all, what about credit?

MR. WOSK: No; we charge the same credit rate we did in 1952. The Wartime Prices and Trade Board put out a credit sheet. We still have that in our store. We have never changed it. That was January, 1942, and the same thing is used. It is the same price or the same percentage as any big finance company, or perhaps a little lower than some of the well-known finance companies charge.

MR. GERIN-LAJOIE: It is somewhat lower?

MR. WOSK: Yes, a shade lower. But it is in some cases higher than some individuals charge.

MR. GERIN-LAJOIE: Having regard to your gross volume of business, what percentage of it would be done on a credit basis?

MR. WOSK: Approximately 75 per cent.

1 That is in total sales. It would not apply to small items or small appliances, the same thing.

2 MR. GERIN-LAJOIE: But you mean on the over-all?

MR. WOSK: On the over-all.

THE CHAIRMAN: On all small appliances I suppose there is a much higher percentage of cash sales?

MR. WOSK: Definitely, yes.

MR. GERIN-LAJOIE: Do I understand that you do your own financing, yourself?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: Entirely?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: Regarding your markups, I think it is well known, and this Commission has been told, that your company has pretty low markups on a number of items. The Commission would like to have your views regarding the number of items and your way of doing business. For instance, a document has been filed before the Commission, and marked Exhibit VAN-1, showing an advertisement which appears to be from your company--although your name does not appear on it. But would you recognize this advertisement?

MR. WOSK: We cannot tell unless our name is on it, because some of our ads look the same. But we might be; we advertised at that price.

MR. GERIN-LAJOIE: A General Electric tea kettle at $9.50?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: Is this under the suggested price by the company?

MR. WOSK: $13.95 is the suggested price on that. I might say, in connection with all these items you are referring to, on the small items, since we started business we will never be undersold by anybody who is in the same class of business, or in the same size of business, approximately. And in all these ads that appear, if twice any big organization in Vancouver--and we have proof of this--would lower the price, we will go as close as to our cost. But we have never sold anything below our cost. But this price of $9.50 was only established after some organization or some selling organization dropped it to that price.

MR. FAVREAU: What is the lowest price at which you sold?

MR. WOSK: $9.50.

MR. FAVREAU: At which you advertised?

MR. WOSK: It was $9.50, after somebody else in the same class advertised it either for $9.49 or $9.50, repeatedly. And we had to drop to it, to their price. When this first appeared at $9.50 our price was $9.55, for instance.

Before that, we have an ad in January, January 2, 1953, when some organization of the same size had a tea kettle for $9.95, and our ad on the same day was $11.85. And we looked pretty

foolish. Of course next day our price was $9.95, and it stays that way. We do not do like some organizations that may have 25 or 26 anniversary sales each year, and all different kinds of sales--any kind of an excuse for cutting prices. If that price is established, then it is the price for every day; and we continue to do so.

THE CHAIRMAN: That becomes your fixed price?

MR. WOSK: That is my price, yes.

MR. GERIN-LAJOIE: Do I understand that you have lists of advertisements showing that other firms have had prices about the same as yours, or even lower?

MR. WOSK: That is right, yes. Here is one, a tea kettle, appearing in the Vancouver Sun of November 20, 1953. Here is your price.

MR. GERIN-LAJOIE: It is shown here at $9.49.

MR. WOSK: That is right. And that is just the same size or a little larger than our tea kettle. The excuse for that is that it was a thank-you sale.

THE CHAIRMAN: And was that before you ever lowered your price?

MR. WOSK: On the same day, November 20.

MR. GERIN-LAJOIE: I think we should file this document.

THE CHAIRMAN: Yes. It is page 15 of the Vancouver Sun for Friday, November 20, 1953.

---<u>EXHIBIT NO. VAN-3</u>: Page 15 from the Vancouver Sun of Friday, November 20, 1953

MR. WOSK: And here is November 14, when our price was $9.95.

MR. GERIN-LAJOIE: You are showing us from your scrapbook of newspaper clippings an advertisement published in the newspapers, a clipping from the Vancouver Province?

MR. WOSK: That is right.

MR. GERIN-LAJOIE: Of November 14, 1953. That is for a G.E. tea kettle.

MR. WOSK: On the same day.

MR. GERIN-LAJOIE: It is for a G.E. tea kettle, of No. 1 quality, and is announced as being on sale at $9.95.

MR. WOSK: Yes.

THE CHAIRMAN: And your price was never reduced to the $9.50 level until after---

MR. WOSK: After it was repeated a few times. Then it was established.

THE CHAIRMAN: Until after somebody else had advertised more than once?

MR. WOSK: That is right. In fact, we go through from November, and for two or three weeks we did not advertise any G.E. tea kettles because we were scared that whatever we advertised somebody would advertise it for less. So we have no ads until about December 10 on that particular tea kettle. And when it quietened down we still advertised at $9.95 until it came in again at other prices.

THE CHAIRMAN: The suggested list price now is $13.95?

MR. WOSK: Yes.

THE CHAIRMAN: It has come down?

MR. WOSK: It used to be $14.95.

THE CHAIRMAN: It came down twice?

MR. WOSK: No, just once.

THE CHAIRMAN: Since 1952?

MR. WOSK: From $14.95 to $13.95.

THE CHAIRMAN: I thought there was two cuts in the excise tax?

MR. WOSK: The first one did not affect it.

THE CHAIRMAN: It did not affect the list price?

MR. WOSK: No.

MR. GERIN-LAJOIE: Have you prepared a list of advertisements published by your company and other companies concerning tea kettles and other articles?

MR. WOSK: We have in several cases, in all these small items--that was the list before we knew anything about--well, when we received first the letter from Mr. MacDonald, we checked our advertising as compared with some others, and we prepared a list of some that appeared. These are those of other firms. We have our ads to prove that they were at the same price, or higher.

MR. GERIN-LAJOIE: These are ads taken from what papers?

MR. WOSK: The Sun and the Province.

MR. GERIN-LAJOIE: The Vancouver Sun and the Vancouver Province?

MR. WOSK: Yes. The dates are here, the items are here, and there are the prices.

THE CHAIRMAN: Do they show respectively whose prices are in which columns?

MR. WOSK: Yes.

MR. GERIN-LAJOIE: The name of the firm and the details of the appliance concerned, and the price advertised, and the date of the publication.

THE CHAIRMAN: And are the prices of Wosk's Limited there, too?

MR. WOSK: No, they are not. But we can give you that list, if you want it.

THE CHAIRMAN: The value of the thing would be to have a comparison of prices charged by other people as shown in those advertisements and your prices at the same time.

MR. WOSK: We have mentioned a couple over here, but not all of them.

THE CHAIRMAN: Would you be able to file a new document showing your prices?

MR. WOSK: Yes.

THE CHAIRMAN: Then, we will file this one in the meantime.

---EXHIBIT NO. VAN-4: Two sheets of yellow paper containing lists, dates, and names of firms and appliances, with prices indicated.

THE CHAIRMAN: The prices shown in Exhibit VAN-4 are the prices shown in advertisements in the

daily papers of those days, is that right?

MR. WOSK: That is right, yes.

THE CHAIRMAN: The prices shown in the advertisements by these firms of these articles on the respective days shown?

MR. WOSK: Yes. The same applies to the
264 other items, too, which we have. We have copies of our ads of different items in the same proportion, too. But, as I said before, we never did lower prices before anybody else. But if someone of the same size advertised lower prices, then we had to follow suit.

MR. FAVREAU: You did not advertise bargains?

MR. WOSK: Yes, we advertised bargains, but at a price that was prevailing at that time. But, a polisher, for instance, if it was selling at $50 and if some firm advertised it for $45 a couple of times, we had to follow.

MR. FAVREAU: And you kept it there?

MR. WOSK: Yes, that was the price for every-day selling.

THE CHAIRMAN: Does that mean you never came back?

MR. WOSK: No, unless it was changed at the factory, or from the distributor.

THE CHAIRMAN: You might ultimately get down to the point where you would be selling a lot of things at cost.

MR. WOSK: No, we never sold below cost.

THE CHAIRMAN: But you might get too close to cost?

MR. WOSK: We might, but it did not happen yet.

MR. GERIN-LAJOIE: In the case of these tea kettles at $9.50, would you tell us if these are above your cost?

MR. WOSK: We make a reasonable profit on them.

MR. GERIN-LAJOIE: Would you mention the percentage?

MR. WOSK: I do not know if I have to. I could give that information to you privately.

THE CHAIRMAN: I would say this, that if Mr. Wosk regards any of that information as private and confidential, I would not ask him to give it at this public hearing.

MR. GROSSMAN: Mr. Chairman and members of the Commission, we are prepared to give this Commission any information, privately, that they want to have. We do not want to make a public statement that might go into the newspapers, on matters of that kind. But there is no information of ours that is not available to this Commission.

THE CHAIRMAN: We would be interested in having that figure privately.

MR. WOSK: Sure, whatever you want you can have.

THE CHAIRMAN: The question of a loss leader is closely connected with the price that

the dealer has to pay. In fact, it is not a loss leader if you get it at a price which enables you to sell at a regular or a reasonable profit.

MR. GROSSMAN: The position there--and it will be disclosed when your Commission gets the information from us--is that even though any of these other people went below cost, we stopped; we never sold below cost at any time. And the records we will give you will show that.

THE CHAIRMAN: Mr. Grossman, are you counsel for this firm?

MR. GROSSMAN: Yes, actually that is what I am. I have no interest in any client--and I never had.

MR. GERIN-LAJOIE: Would you tell us if the price you paid for tea kettles and other small articles was smaller when you bought in larger quantities?

MR. WOSK: Oh, yes. We always buy--everything, practically, in our buying is based on quantity buying. If you buy a dozen, it is so much; if you buy a hundred, it is so much, and if you buy more, it is so much. And in buying a bigger quantity you have the privilege of buying for less money. And if you buy for less money, and if you have to keep the price at $13.95, you are not passing the savings on to the public. You cannot sell it for any less. But if I can work my percentage at so much to make a profit, a legitimate profit, and I can stay in business, and I can buy it cheaper, I

do not see any reason why I cannot sell it to the public for less money.

MR. GERIN-LAJOIE: So would it be normal that if you have a larger buying power than a neighbouring retailer, for instance, you would pay less to the manufacturer or the jobber for those particular items?

MR. WOSK: It is a known fact, and it is open to everybody. There is no secret about it. There is no secret deal. Three or four retailers could get together and take advantage of it; instead of buying six items by each one of them, they could buy 25--four of them could buy 25--and it would cost them the same thing.

THE CHAIRMAN: You mean that if they did that they would get the same price as a large operator like yourself?

MR. WOSK: That is right. But to say that there is a set price, and that I make a good deal, and that I have to sell it, and not advertise it, or that I must keep it under the counter, and that sort of thing--well, that is not business, so far as I am concerned. When we make a good buy we sell it for what we think is a reasonable profit. And we sell it for that.

MR. GERIN-LAJOIE: This Commission has been told--and I do not know whether it was applied particularly to your firm or to an unknown firm in Vancouver--that in connection with an item selling at a low cost, such as a tea kettle, it would be put on a special

counter, which would be known as being a cut-price table.

MR. WOSK: That is not true, and it would be very foolish business. It would be very foolish, if it were true, because then you would only get the public to that particular place, and they would not go around through your store. It would be very poor business, and I do not consider myself a poor businessman.

THE CHAIRMAN: You mean that it is not true, according to your company?

MR. WOSK: No, and it would be very poor business to do that.

MR. FAVREAU: If you had a series of bargains you would scatter them around?

MR. WOSK: You would scatter them throughout the store, that would only be right. You want the customers to go from one floor to another, or to different places--not just to go to one place, and look for that item.

THE CHAIRMAN: You do not want your customers to stay in one place, or have them concentrated in one corner?

MR. WOSK: That is right. We would not want that--to have them concentrated where you would make less profit than in other places.

MR. GERIN-LAJOIE: Do you mean it is not and has not been your policy to have a special display of low-cost articles, cut-price articles, just to draw people into your store? So as to

sell them something else?

MR. WOSK: No, there was nothing like that--and we do not advertise that way. When we advertise something we have it. And, as I say, our advertising is not based on one day. You have been referring to small items. When a price is established, it stays there, regardless of the advertising, or not. If it is advertised for Friday, they can come in on Monday and still get it at the same price, because that is the established price.

THE CHAIRMAN: You do not follow the type of advertising which we have seen elsewhere of saying that at 10:30, for instance, for one hour---

MR. WOSK: No.

THE CHAIRMAN: That certain goods may be had at such and such a price?

MR. WOSK: No.

THE CHAIRMAN: Or anything of that kind?

MR. WOSK: No.

MR. GERIN-LAJOIE: If a manufacturer were to change its price, as you mentioned a moment ago, on the tea kettle--and we will take that as an example--would you keep the same price, so long as the other retailers did not cut the price, or would you reduce your price to keep the same margin as you have now?

MR. WOSK: It would depend upon how much power the manufacturer would have in enforcing his list price. If they had the power to enforce it,

we would have to charge at the price they suggested, regardless of our cost.

MR. GERIN-LAJOIE: I am speaking of the present situation, without any power in the hands of the manufacturer to enforce the list price. Let us suppose now that you pay $8 for a tea kettle, and sell it at $9.50. If the price tomorrow from the manufacturer or the wholesaler instead of being $8 was to be $7, would you bring down this figure of $9.50 immediately, or would you wait until your competitor brought his price down?

MR. WOSK: I would bring it down to a reasonable profit. I might not drop the whole dollar or $1.50, but I would drop so much off, just so as to have a certain percentage for operating purposes.

MR. GERIN-LAJOIE: Up to now we have considered particularly the small appliances. I should like now to take a look at the larger appliances such as TV sets, radios, and so on. Is it your policy on those larger items to have lower selling costs to the retailer or to the consumer than the other retailers in town?

MR. WOSK: If there is a new item comes out in season, and there is a suggested list price, it is kept there, or close to it.

MR. GERIN-LAJOIE: But is it your policy, for instance, to sell a TV set of a certain make slightly cheaper than any other retailer in town?

MR. WOSK: If we buy it better, definitely.

MR. GERIN-LAJOIE: I mean is it your policy on large appliances that nobody undersells you?

MR. WOSK: Definitely.

MR. GERIN-LAJOIE: Just as it is on the small appliances?

MR. WOSK: The same thing; but in the larger appliances you do not get the same deals. If a manufacturer is clearing a few carloads of refrigerators or TV sets, they usually deal on one particular item with one or two dealers. And the price is usually set up as being so and so, just to give a reasonable profit.

THE CHAIRMAN: You mean that a manufacturer would be willing, on a special deal of that kind, that the list price be departed from?

MR. WOSK: Yes.

THE CHAIRMAN: And he would make no objection to it?

MR. WOSK: That is right.

THE CHAIRMAN: Was that true before the legislation of 1951?

MR. WOSK: Well, you had to do it under cover, more or less. Before the legislation went through, a manufacturer, or some of them, would say, "You can do whatever you want, but do not say I said so." And now, of course, they cannot tell you anything.

THE CHAIRMAN: You mean that before 1951 they would agree to it, but they did not want you

to announce it?

MR. WOSK: That is right. They would say, "We don't know anything about it. We are deaf."

MR. GERIN-LAJOIE: So, as I understand it, it is your policy that nobody undersells you on any article?

MR. WOSK: On any article that does not go below our cost. If it goes below our cost we do not sell that article any more.

MR. GERIN-LAJOIE: And even with that policy of not being undersold by any other retailer you still do business profitably?

MR. WOSK: Definitely, yes.

MR. GERIN-LAJOIE: And you give full service to your clients?

MR. WOSK: We think we have the best service departments in the city of Vancouver. There might be some others just as good, but I do not think any of them are any better.

MR. GERIN-LAJOIE: And do you give delivery service now?

MR. WOSK: We have our own trucks. We are the only ones who advertise that we can deliver the same day that a person buys a refrigerator. He can buy it and have it delivered in the same day. And we will deliver it to him a hundred miles away from Vancouver, with our own truck, and set it up and check it, and so on. And, just to clear up this point, I attribute a lot of our growth to repeat customers. I would say that 42 per cent

of our business is with repeat customers, repeat business. And if we did not give them service, we would not get them back again.

THE CHAIRMAN: Is the service which you have been describing--delivery up to a hundred miles from Vancouver--is that given free, included in the price of the article?

MR. WOSK: It is free.

THE CHAIRMAN: Or is there a service charge?

MR. WOSK: No, unless it is a TV set; and then TV has a service policy, which is something new.

THE CHAIRMAN: But your other service is free?

MR. WOSK: Yes, the other service is free.

THE CHAIRMAN: For a fixed period?

MR. WOSK: Yes.

THE CHAIRMAN: And without any extra charge?

MR. WOSK: Yes.

THE CHAIRMAN: In connection with television there is an extra charge?

MR. WOSK: Yes.

MR. FAVREAU: When did the service policy begin to be in force on television?

MR. WOSK: About three or four months ago. We did not sell much television until January of this year. That is when we started--when the

station opened up here.

MR. FAVREAU: There was a time when service was included?

MR. WOSK: Yes, but it is now the practice throughout the United States and Canada to charge for a service policy.

MR. GERIN-LAJOIE: Do you take telephone orders?

MR. WOSK: Yes, on small items, on an item like a tea kettle, or anything like that, for shipping out purposes we charge 50 cents for shipping. That would be on an item like a tea kettle, or a small item to be shipped out. We sometimes deliver by our own trucks, and sometimes we mail by post.

MR. GERIN-LAJOIE: And if a person unknown to you in Vancouver were to ring up your store and order a tea kettle at $9.50, would you deliver it C.O.D.?

MR. WOSK: Definitely.

MR. GERIN-LAJOIE: And do you sell large appliances as well as small appliances anywhere in British Columbia, and deliver them?

MR. WOSK: Oh, yes.

MR. GERIN-LAJOIE: And do you have a charge to deliver your large appliances?

MR. WOSK: We do not charge for the delivery of large appliances, up to 100 miles. But after 100 miles we do charge.

MR. GERIN-LAJOIE: A fixed fee?

MR. WOSK: It is usually the cost of the freight charge.

MR. GERIN-LAJOIE: Let us say if it is three or four hundred miles, how would you charge?

MR. WOSK: It might be $10 or $12, depending upon the weight, or whatever the C.P.R. or the C.N.R. charged.

MR. GERIN-LAJOIE: It is the cost that you charge?

MR. WOSK: Yes.

THE CHAIRMAN: Up to 100 miles you deliver free?

MR. WOSK: Yes.

THE CHAIRMAN: And if it is over that, you employ a common carrier?

MR. WOSK: Yes, that is right.

MR. FAVREAU: So that you perform installation only within 100 miles radius?

MR. WOSK: That is right. If we sell an item that requires installation, such as an automatic washer, and we have no service in that district, we give a refund amounting to the difference in the service charge, which might be $12 or $15, or whatever it is.

MR. GERIN-LAJOIE: We were considering a moment ago the situation where a manufacturer or wholesaler would bring his price down. If he were to bring his price up would you bring your own price up also automatically, or would you wait and see what the other retailers are doing?

MR. WOSK: We would raise the price, too. But it has not happened in the last couple of years.

That is something we do not anticipate, either.

THE CHAIRMAN: You do not think that market conditions indicate that that is likely to happen?

MR. WOSK: No. There is one point on which I agree with my friend Mr. Forst, who was here before--that there is a definite wastage between the time it is turned out by the manufacturer and the time we get the article to sell. There aree too many fellows who are in between. The price could still come down. I think some of that could be eliminated--I don't know how good or bad that would be; but it seems to me that a manufacturer makes something, and then there is the wholesaler, or the distributor, and of course all this adds to the cost.

THE CHAIRMAN: You mean you do not think these middlemen perform a service for which the price is justified?

MR. WOSK: That is right. I am not talking about legitimate wholesalers, big wholesalers, who carry stocks for us.

MR. GERIN-LAJOIE: Would you tell the Commission what you consider a loss leader to be, in your opinion? What have you in mind when you refer to a loss leader?

MR. WOSK: I would say that a loss leader is an article sold below cost and plus a reasonable profit to handle that particular article--a reasonable percentage. I would not consider that it

should be a flat 25 per cent, or whatever it is, because it costs less to sell tea kettles than it does to sell refrigerators.

MR. FAVREAU: When you say you never sold your tea kettles or advertised them below cost, does that mean below the laid-down cost, or below the laid-down cost, plus a necessary percentage to do business?

MR. WOSK: Yes, that is right--plus my overhead to cover that particular item.

THE CHAIRMAN: That is, you never have advertised or sold at a price that did not clear your expenses?

MR. WOSK: That is right.

THE CHAIRMAN: With regard to that item?

MR. WOSK: Yes.

THE CHAIRMAN: That is, as near as you can estimate?

MR. WOSK: Yes. In some items there is service, and in some other items there is a lot less service. In these particular items they are guaranteed by the manufacturer, and if something is wrong you take them to the manufacturer and he looks after the service, and it does not cost you anything.

MR. GERIN-LAJOIE: Why would you wait until a competitor brings his price down, if even after bringing your price down you make what you call a reasonable profit?

MR. WOSK: Well, we were talking about cost, and a reasonable profit is not the same thing.

If it costs $9, and it costs you 10 per cent to do business, that would be $10; and if there is a reasonable profit, I imagine that would be $11 or $11.50, and I would sell it for that. But I would go up to $10, if somebody advertises it for that.

MR. GERIN-LAJOIE: That is all.

MR. WHITELEY: Since the banning of resale price maintenance, have you tended to shift your lines at all from nationally advertised lines to not nationally advertised lines?

MR. WOSK: No, our intention is to sell more nationally advertised lines. They are more acceptable, and if you can sell whatever you want to sell, at whatever price you can make a profit, it is better to sell nationally advertised lines.

MR. WHITELEY: And as far as your company is concerned, you have not brought in, to any greater extent, not nationally advertised lines?

MR. WOSK: No, not very much. Some goods come in from the United States, but they are a very small percentage--a very small percentage of our selling.

THE CHAIRMAN: Or Canadian manufactured, that are not nationally advertised?

MR. WOSK: No. We do get some merchandise made by manufacturers for ourselves only. But they insist upon carrying the manufacturer's name on it, although they are sold by us only, exclusively.

THE CHAIRMAN: Do you get a manufacturer's guarantee with regard to unknown brands?

MR. WOSK: Yes.

THE CHAIRMAN: Do they give a guarantee?

MR. WOSK: Yes, but it is harder to get that guarantee enforced.

THE CHAIRMAN: That is, the public would regard the guarantee of a well-known national manufacturer as more valuable than one of an unknown manufacturer?

MR. WOSK: It costs us cheaper to handle a G.E. line, because if something is wrong we can go to the General Electric Company. And if we buy something unknown from a factory in Toronto, perhaps we have to ship it back to have it repaired, and it takes six weeks to get it back; and it is not good either for us or for the customer.

THE CHAIRMAN: It is advantageous to you, from what you have said, and also the customer finds it advantageous?

MR. WOSK: Yes, the national brands.

MR. WHITELEY: On these nationally advertised lines, do you consider your margin is any less now than it was before 1952?

MR. WOSK: Small or big appliances?

MR. WHITELEY: The larger ones.

MR. WOSK: The larger ones?

MR. WHITELEY: Yes.

MR. WOSK: No, not any less; it is about the same.

MR. WHITELEY: Does that mean you were selling at the list price previously?

MR. WOSK: You were selling at the list price and you were giving a fictitious trade-in. It is the same thing. If your gross profit was-- if you gave $100 for a refrigerator that was worth $20, I do not consider it a $400 sale. I only consider it as a $320 sale.

MR. WHITELEY: So that actually, in the previous period, you were departing from the list price by allowing a large trade-in?

MR. WOSK: That was the practice of the trade.

THE CHAIRMAN: Generally?

MR. WOSK: Yes, that is right.

MR. WHITELEY: And now you can advertise to the public---

MR. WOSK: The true value or the true price you are going to sell it for.

THE CHAIRMAN: You do not need to show trade-in valuation?

MR. WOSK: In some cases, with some manufacturers, he insists, let us say, to keep it at that price. Then you have to still do it on a big trade-in.

THE CHAIRMAN: Do you mean the manufacturers tell you to keep---

MR. WOSK: Well, they do not tell you exactly, in those words, by saying that they will not supply you, or anything like that. But they will say, "We would like you to keep it at $400. This is our suggested list price."

THE CHAIRMAN: I think that I have nothing further to ask. Thank you very much for coming, Mr. Wosk. We also thank you for the information you have given us; and we would be glad to have the information you have promised to send.

MR. WOSK: I will get it for you.

THE CHAIRMAN: Then, that is all for today. We will resume again tomorrow at 10 o'clock.

---Whereupon the hearing adjourned on Thursday, July 8, to the following day, Friday, July 9, 1954.
